

189

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

MARILYN STANDFORD, )  
and )  
KENNETH STANDFORD, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
OAKLAND COUNTY TREASURER'S )  
OFFICE, )  
 )  
 )  
\_\_\_\_\_ )

Case:2:12-cv-10113  
Judge: Cox, Sean F.  
MJ: Randon, Mark A.  
Filed: 01-10-2012 At 04:03 PM  
CMP: MARILYN STANDFORD, ET AL V. OAK  
LAND COUNTY TREASURER (KB)

**COMPLAINT AND CLAIM FOR RELIEF UNDER AUTHORITY OF**

**5 USC 552**

**COUNT I**

**VIOLATION OF FOIA**

1. On April 25, 2011, I, Marilyn and Kenneth Stanford , hereinafter, "Plaintiff," sent certified mail a FOIA request letter to Oakland County Treasures office, which sought " Documentation regarding which type of tax their private property County taxes fell under; "direct" or "indirect," or other taxing category, naming the specific category.

2. My FOIA request letter requested that Oakland County Treasures office :  
Please provide certified documents showing Oakland County's legal and constitutional authority, including statutory law (positive law) to tax, directly or indirectly, my personal,

private property, including on land and home, since it was being applied as neither direct nor indirect.

3. My FOIA request letter requested that Oakland County Treasures office: Please provide documentation of who the responsible party is who authorized said taxes, and their jurisdiction on this issue, to include signature and printing of that name on this document. There must be statutory law (positive law) that exists which allows this taxation, but it cannot be in conflict with the Constitution;

4. My FOIA request letter requested that Oakland County Treasures office: Please provide documentation on how I was being represented by the following taxes being assessed against my personal property.

5. My FOIA request letter requested that Oakland County Treasures office: Please provide documentation showing the **method of assessment**, the rules for assessment, the financial criteria used for this assessment, and copy of independent, certified appraisal of said property.

6. My FOIA request letter requested that Oakland County Treasures office: Please provide a complete record of all taxes paid by me on the property listed below, since purchase on January 16, 2004, to include itemization of taxes for land, taxes for buildings on said land, or any other taxed item .

7. My FOIA request letter requested that Oakland County Treasures office: **Please** provide documentation of who actually signs/verifies/authenticates the assessments on real and personal property, and on any delinquency notices for unpaid taxes. An unsigned assessment is insufficient legal notice and a nullity, unless you can document and verify otherwise.

8. On June 25, 2011, I received a **late response from Oakland County Treasures** Office. Further, Oakland County Treasures failed to provide the specific documents I sought in my FOIA.

9. Oakland County Treasures Office should have responded to my request within 20 working days, notifying me of at least their determination whether or not to fulfill my request and of the my right to appeal the their determination to the agency head. 5 U.S.C. § 552(a) (6) (A)(i).

10. Oakland County Treasures Office may delay its response to a FOIA request or appeal, but must provide notice and “the date on which a determination is expected to be dispatched.” 5 U.S.C. § 552(a)(6)(B). Any such delay may it exceed an additional ten working days beyond the initial 20-working-day period mandated-by the FOIA.

11. However, Oakland County Treasures Office failed to provide notice and “the date on which a determination is expected to be dispatched.” 5 U.S.C. § 552(a)(6)(B).

12. Oakland County Treasures Office has conspired to withhold the document sought by Me or confess that the document does not exist.

13. As a result of Oakland County Treasures Office's conspiracy to withhold the record, or in the alternative, remain silence when Oakland County Treasures Office had a legal duty to speak, such record does not exist, We have been damaged financially, socially, and emotionally by non-compliant acts of Oakland County Treasures Office.

## **COUNT II**

### **VIOLATIONS OF 42 USC § 1983**

14. In order to prevail on his 42 USC § 1983 claim, plaintiff must demonstrate that: (1) a person deprived him of a constitutional right; and (2) the person who deprived him of that right acted under color of state law. *Gorman v. Township of Manalapan*, 47 F.3d 628, 633 (3d Cir. 1995).

15. The Color of law also means under "pretense of law". Oakland County Treasures Office acted under the pretense of law set forth in Act 206 Public Act of 1983, as Amended by Act 123 of Public Acts of 1999

16. Oakland County Treasures Office purely private acts to take my Property are furthered by actual or purported state authorities, which is considered acts under color of state law. Oakland County Treasures Office knowingly continues exercising wrongful dominion over my property despite Oakland County Treasures Office failed to answer My FOIA and objection .

17. I submitted written objections pursuant to 211.78k (3), which states : A person claiming an interest in a parcel of property set forth in the petition for foreclosure who desires to contest that petition shall file **written objections** .....and serve those objections on the foreclosing governmental unit prior to the date of the hearing required under this section. However, Oakland County Treasures Office has refused to answer and is expected continue forth with a tax auction.

18. Our written Objection specifically stated: This objection and FOIA request is in no way shape or form an attempt to avoid a lawfully owed debt. The reason this objection and request is being set forth by me is because of the lack of understanding concerning the assessment. However, Oakland County Treasures Office is depriving me of documentation and/or a response as required under *the FOIA*.

19. Here, “the governmental foreclosing unit” has deprived Us of property by an arbitrary exercise of power. Specifically, Oakland County Treasures Office received Our written objection, pursuant to the rule, yet Oakland County Treasures Office is threatening to continued forth with a public auction whereby My property will be sold as a result of Oakland County Treasures Office’s arbitrary exercise of power. “[W]hether challenged legislation violates principles of substantive due process depends on the nature of the right affected.” *Brinkley v Brinkley*, 277 Mich App 23, 30; 742 NW2d 629 (2007).

20. Equal protection of the law is guaranteed by both the federal and Michigan constitutions. *Brinkley v Brinkley*, 277 Mich App 23, 35; 742 NW2d 629 (2007). The purpose of equal protection is to ensure every person against intentional and arbitrary discrimination, whether occasioned by the express terms of a statute or by its improper execution. *Village of Willowbrook v Olech*, 528 US 562, 564; 120 S Ct 1073; 145 L Ed 2d 1060 (2000). The equal protection guarantee requires that persons under similar circumstances be treated alike, but there is no requirement that persons under different circumstances be treated the same. *El Souri v Dep't of Social Servs*, 429 Mich 203, 207; 414 NW2d 679 (1987). However, in light of the “violators” actions, we will be denied Our right to equal protection.

21. The applicable statute in this instance is 42 U.S.C. §1983, which states :—Every person who, under color of any statute, ordinance, regulation, custom or usage of any State ., subjects, or causes to be subjected, any citizen of the United States or any other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law ....“In order to bring action under §1983, one must allege that defendant violated plaintiff’s constitutional rights and the deprivation must have been committed by a person acting under color of state law. *Barna v. City of Perth Amboy*, 42 F.3d 809, 816 (3rd Cir. 1994). Under the definition of acting under state law, the defendant in a §1983 action —must have exercised power “possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law’.” *West v. Atkins*, 487 U.S. 42, 49 (1988) (quoting *U.S. v. Classic*, 313 U.S. 299, 326 (1941)). In addition,

the Supreme Court has held that it is firmly established that a defendant acts under color of state law when he abuses the position given to him by that state. West, 487 U.S. at 49, 50.

22. In this case, Oakland County Treasures Office and/or the person appointed to decide whether the tax shall be levied under a law of this state, acted without jurisdiction, and did not impose the tax in question as a result of Oakland County Treasures Office's failure to answer My FOIA. Further, Oakland County Treasures Office never answered my written objection

23. Oakland County Treasures Office is expected to sell my property at Tax auction, which will deprived Me of property interests, through actions which are arbitrary (in the constitutional sense). Oakland County Treasures Office failed to provide Me with laws, assessment, appraisals, or certification concerning Oakland County Treasures ability to tax My private property, and failed to respond to My written objection.

24. Thus, States and State agencies are entitled to Eleventh Amendment immunity in federal court, Edelman v. Jordan, 415 U.S. 651 (1974), but local governments have no immunity from damages flowing from constitutional violations, and may not assert the good faith of its agents as a defense to liability. Owen v. City of Independence, MO, 445 U.S. 621 (1980); Monell v. Dept. of Social Services of New York, 436 U.S. 658, 699-700 (1978). Further, state law sovereign immunity and state law limitations on damages do not protect local governments from liability under section 1983, Howlett v. Rose, 496 U.S. 356 (1990); Hamm v. Powell, 874 F.2d 766, 770 (11th Cir.1989), and state laws

requiring pre-suit notification prior to initiating an action against the state or its subdivisions similarly do not apply Felder v. Casey, 487 U.S. 131 (1988). Therefore local governments are left in the unique and unhappy situation of being subject to suit without the benefit of any form of immunity.

#### Remedy sought

25. The rule of law requires this court's order that Oakland County Treasures Office be compelled to state on Andy Meisner oath that Andy Meisner has no oath of office on file or be found in contempt. See 5 USC 552, vi (g). Verification the Andy Meisner has shown contempt for The Constitution of The United States by failing or refusing to take an oath to uphold the Constitution requires a finding that everything Andy Meisner has done was merely clerical in nature and banning Andy Meisner from the Eastern Federal District of Michigan for impersonating a Treasurer together with the pains and penalties of impeachment, these elements of remedy along with reimbursing Us for the costs of bringing this action, not less than \$2,000,000.00.

Prepared and submitted by: Marilyn Stanford



Exhibit A

Marilyn Stanford  
24065 Rockingham  
Southfield, MI 48033

COUNTY OF OAKLAND

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P.O. BOX 33555  
PONTICA, MICHIGAN 48232-5555

**PROPERTY ADDRESS: 24065 Rockingham, Southfield 48033, Parcel 76-24-29-329-002**  
**WRITTEN OBJECTION AND FOIA REQUEST CONCERNING TAX YEARS 2008, 2009,**

Pursuant to the Freedom of Information Act, 5 U.S.C. subsections 552, I am requesting Information, records, assessments, or contracts concerning a breach which gives rise for a public auction of my personal property. I owned the described property listed in your office's assessment letter, which gives no breakdown of how these funds will be allocated . I believe the following requested documentation is crucial for my record. However, Failure to respond is a violation of FOIA as described above, and if no response is made by you, then these conclusions shall be deemed to be admitted by you, and it shall be construed as "bad faith" and fraud as ruled in McNALLY v. UNITED STATES, 483 U.S. 350, 372 (1987), supra, and; "Silence can only be equated with fraud where there is a legal or moral duty to speak, or where an inquiry left unanswered would be intentionally misleading. . . Our revenue system is based on the good faith of the taxpayer and the taxpayers should be able to expect the same from the government in its enforcement and collection activities. If that is the case we hope our message is clear. This sort of deception will not be tolerated and if this is routine it should be corrected immediately." U.S. v. Tweel, 550 F.2d 297, 299. See also U.S. v. Prudden, 424 F.2d 1021, 1032; Carmine v. Bowen, 64 A. 932.

This objection and FOIA request is in no way shape or form an attempt to avoid a lawfully owed debt. The reason this objection and request is being set forth by me is because of

the lack of understanding concerning the assessment. In addition to the vague assessment letter, If you...examined [The 16th Amendment] carefully, you would find that a sufficient number of states never ratified that amendment." - U.S. District Court Judge James C. Fox 2003. What the IRS website and the Government in general refuse to recognize is that the Sixteenth Amendment to the Constitution of the United States was never ratified by a majority of the States. Only two or less States properly ratified the proposed Amendment. In February 1913 Secretary of State Knox falsely declared the 16th Amendment ratified and the government has been unlawfully demanding taxes ever since. The 16th Amendment allegedly entitled the government to collect uneven taxes. The U.S. Constitution does not preclude taxation it dictates that tax be uniform for everyone, except Indians, and apportioned equally across all the States:

**Article I, Section 2: "...Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct."**

The 16th Amendment is claimed by the federal government in the federal territory of Washington, D.C. to authorize their private collection company, the IRS, to collect "income tax". However if the 16th was not properly ratified the IRS has no legal authority to collect tax. The same applies to local County and State tax collectors who are also bound by the U.S. Constitution. After an exhaustive year long search of legislative records in 48 sovereign States conducted by Bill Benson, (Alaska & Hawaii were not admitted into the Union until after 1913). the only record of the 16th Amendment ever having been confirmed was a fraudulent proclamation made by the Secretary of State Philander Knox on February 25, 1913, wherein he simply declared it to be "in effect", but never stated that it was lawfully ratified. Even if the 16th Amendment were properly ratified, according to Article 1, Section 9 of the Constitution, it has always been unconstitutional for the U.S. Federal Government to directly tax "We the People" in their property, wages, salaries, or earnings. U.S. Supreme Court Judges repeatedly rejected any claims that the 16th Amendment changed the constitutional limits on direct taxes: *Brushaber v. Union Pacific R.R. Co.*, 240 U.S. 1, The Supreme Court ruled that the 16th "created no new power of taxation" and that it "did not change the constitutional limitations which forbid any direct taxation of individuals". An argument often made by judges attempting to ignore the fact of the failure to ratify the 16th, is that precedence under Common Law now exists because the

government has been mugging the public for so long and this somehow legalizes the IRS and the local County Tax collector. However, the U.S Constitution is higher law than the precedence of Common Law, which in itself represents the will of the people and not the will of the government. Article I, Section 2 of the Constitution dictates that the IRS and the local County Tax collector are collecting tax unlawfully. Bill Benson's exhaustive investigation of the history of the 16th Amendment revealed the following defects and prove the 16th horribly failed to receive the necessary three-fourths of the States approval. To have been ratified 36 of the 48 States would have had to properly ratify the 16th Amendment. Naturally for something as significant as the U.S. Constitution, ratification of an Amendment is extremely important and serious, typos, spelling and anything that is not an exact copy of the Amendment is utterly unacceptable, this is no pre-school project.

## **Record of Failed Ratification of 16th Amendment As Recorded By Secretary Of State:**

### **KEY:**

- 01- Not ratified by state legislature, and so reported
- 02- Not ratified by state legislature, but reported as ratified
- 03- Missing or incomplete evidence of ratification, but reported as ratified
- 04- Failure of Governor or other official to sign, although required by State Constitution
- 05- Other violation of State Constitution in ratification process
- 06- Other procedural irregularity making ratification doubtful
- 07- Approval, but with change in wording, accepted as ratification of original version
- 08- Approval, but with change in spelling, accepted as ratification of original version
- 09- Approval, but with change in capitalization, accepted as ratification of original version
- 10- Approval, but with change in punctuation, accepted as ratification of original version

State	01	02	03	04	05	06	07	08	09	10
Alabama							1		1	1
Arizona					1	1	1			1
Arkansas					1	1	1		1	1
California					1	1	1		1	1
Colorado					1	1	1			1
Connecticut	1									
Delaware			1							
Florida	1									
Georgia					1	1	1		1	1
Idaho				1	1	1	1		1	1
Illinois					1		1		1	
Indiana						1	1		1	
Iowa				1		1			1	
Kansas					1				1	
Kentucky		1		1	1	1	1		1	1
Louisiana					1	1	1			1
Maine									1	1
Maryland					1	1				1
Massachusetts					1	1			1	1
Michigan			1		1		1		1	1
Minnesota				1		1				
Mississippi					1	1	1	1	1	1
Missouri				1	1	1	1		1	

Montana					1	1			1	1
Nebraska						1			1	
Nevada			1						1	1
New Hampshire			1							
New Jersey					1	1			1	
New Mexico					1	1				
New York						1			1	1
North Carolina									1	1
North Dakota					1		1			
Ohio						1			1	
Oklahoma						1	1		1	
Oregon	1								1	
Pennsylvania	1									
Rhode Island	1									
South Carolina						1	1		1	1
South Dakota			1			1	1		1	1
Tennessee		1	1		1	1	1			
Texas			1		1	1	1		1	1
Utah	1									
Vermont			1		1	1			1	1
Virginia	1									
Washington				1	1		1		1	1
West Virginia					1	1				1
Wisconsin							1		1	1
Wyoming		1	1		1	1			1	1
<b>Total</b>	<b>7</b>	<b>3</b>	<b>9</b>	<b>6</b>	<b>25</b>	<b>29</b>	<b>22</b>	<b>1</b>	<b>31</b>	<b>27</b>

<b>Additional</b>	7	3	7	5	16	6	2	0	2	0
<b>Ratification Failures Accumulated</b>	7	10	17	22	38	44	46	46	48	48
<b>KEY</b>	01	02	03	04	05	06	07	08	09	10

"If money is wanted by rulers who have in any manner oppressed the People, they may retain it until their grievances are redressed, and thus peaceably procure relief, without trusting to despised petitions or disturbing the public tranquility." Journals of the Continental Congress. 26 October, 1774©1789. Journals 1: 105©13. All government officials and agencies, including all State legislatures, are bound by the Constitution and must NOT create any defacto laws which counter the Constitution:

**"This Constitution, and the laws of the United States which shall be made in pursuance thereof;... shall be the supreme law of the land; and the judges in every state shall be bound thereby... The Senators and Representatives and members of the State legislature, and all executive and judicial officers of the United States and the several States, shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." The Constitution of the United States of America, Article VI, Cl 2, 3.**

"The United States is entirely a creature of the Constitution. Its power and authority have no other source. It can only act in accordance with all the limitations imposed by the Constitution." Reid v Covert 354 US 1, 1957. Any laws created by government which are repugnant to the Constitution carry NO force of law and are VOID: "The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void and ineffective for any purpose, since its unconstitutionality dates from the time of its enactment... In legal contemplation, it is as inoperative as if it had never been passed... Since an unconstitutional law is void, the general principles follow that it imposes no duties, confers no right, creates no office, bestows no power or authority on anyone, affords no protection and justifies no acts performed under it... A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede any existing law. Indeed insofar as a statute runs counter to the fundamental law of the land, (the Constitution JTM) it is superseded thereby. No one is bound to obey an unconstitutional law and no courts are bound to enforce it." Bonnett v. Vallier, 116 N.W. 885, 136 Wis. 193 (1908); NORTON v. SHELBY COUNTY, 118 U.S. 425 (1886). See also Bonnett v Vallier, 136 Wis 193, 200; 116 NW 885, 887 (1908); State ex rel Ballard v Goodland, 159 Wis 393, 395; 150 NW 488, 489 (1915); State ex rel Kleist v Donald,

164 Wis 545, 552-553; 160 NW 1067, 1070 (1917); State ex rel Martin v Zimmerman, 233 Wis 16, 21; 288 NW 454, 457 (1939); State ex rel Commissioners of Public Lands v Anderson, 56 Wis 2d 666, 672; 203 NW2d 84, 87 (1973); and Butzlaffer v Van Der Geest & Sons, Inc, Wis, 115 Wis 2d 539; 340 NW2d 742, 744-745 (1983).

"Thus, the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the Constitution is void;" and the courts, as well as other departments, are bound by that instrument." Marbury v Madison, 5 US 1803 (2 Cranch) 137, 170?180, and NORTON v. SHELBY COUNTY, 118 U.S. 425. "When an act of the legislature is repugnant or contrary to the constitution, it is, ipso facto, void." 2 Pet. R. 522; 12 Wheat. 270; 3 Dall. 286; 4 Dall. 18 "[p]owers not granted (to any government) are prohibited." United States v. Butler, 297 U.S 1, 68 (1936). "Insofar as a statute runs counter to the fundamental law of the land, (constitution) it is superseded thereby." (16 Am Jur 2d 177, Late Am Jur 2d. 256) ".all laws which are repugnant to the Constitution are null and void' (Marbury v Madison, 5 US 1803 (2 Cranch) 137, 174, 170)."Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." - Miranda v. Arizona, 384 U.S. 436, 491."The claim and exercise of a constitutional right cannot be converted into a crime." Miller v. U.S., 230 F 2d 486, 489."There can be no sanction or penalty imposed upon one because of this exercise of Constitutional rights."- Sherar v. Cullen, 481 F. 945.**To disregard Constitutional law, and to violate the same, creates a sure liability upon the one involved:** "State officers may be held personally liable for damages based upon actions taken in their official capacities." Hafer v. Melo, 502 U.S. 21 (1991).

"Anyone entering into an arrangement with the government takes the risk of having accurately ascertained that he who purports to act for the government stays within the bounds of his authority, even though the agent himself may be unaware of limitations upon his authority." The United States Supreme Court, Federal Crop Ins. Corp, v. Merrill, 332 US 380-388 L1947) "The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the state or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the state, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the state, and can only be taken from him



by due process of law, and in accordance with the Constitution. United States Supreme Court reminds us in *Hale v. Henkel*, 201 U.S. 43 (1906): "The legal right of an individual to decrease or ALTOGETHER AVOID his/her taxes by means which the law permits cannot be doubted" – *Gregory v. Helvering*, 293 U.S. 465 "The fact is, property is a tree; income is the fruit; labour is a tree; income the fruit; capital, the tree; income the 'fruit.' The fruit, if not consumed (severed) as fast as it ripens, will germinate from the seed... and will produce other trees and grow into more property; but so long as it is fruit merely, and plucked (severed) to eat... it is no tree, and will produce itself no fruit." *Waring v. City of Savannah*. 60 Ga. 93, 100 (1878).

The point being made is that the tree (private property, land, wages, salaries, compensation) is NOT taxable, while the "fruit" (or "income" FROM said property or wages) of the tree CAN possibly be taxed, (but only according to constitutional provisions). Tax upon income derived from, say, rental property, CAN be taxed, but ONLY according to the Constitution, because the tax does NOT diminish "tree," the principal, or lessen the value of the person or property. Property taxation diminishes the "tree" itself, (the wealth of the person) thereby creating a possible situation where the tree could disappear because of the tax. Property taxation must fall within constitutional guidelines set forth for all People of our nation. To be applied other than under Constitutional parameters is to make such a law or application null and void and is a violation of our constitutional rights. Direct taxes must be "**apportioned** among the several states which may be included within this Union". [See Article I, Section 2, Clause 3 and Article I, Section 9, Clause 4.] These include taxes directly upon people or personal property. "...all duties, imposts and excises [indirect taxes], shall be **uniform** throughout the United States". [See Article I, Section 8, Clause 1.] "Apportionment" means according to the census... the actual number of people in the county or state. "Uniform throughout the United States" means the tax is the same everywhere, such as alcohol, tobacco and other excise taxes, where all Americans pay the same tax regardless of the state they are in. "Thus, in the matter of taxation, the Constitution recognizes the two great classes of direct and indirect taxes, and lays down two rules by which their imposition must be governed, namely: the rule of apportionment as to direct taxes and the rule of uniformity as to duties, imposts and excises." ...determining that, the classification of Direct adopted for the purpose of rendering it impossible for the government to burden, by taxation, accumulation of property, real or personal, except subject to the regulation of apportionment..." *Pollock v. Farmers' Loan & Trust Co.* 158, U.S. 601, at 637 (1895). "The name of the tax is unimportant that it is the substance and not the form which controls; that the limitations of the constitution cannot be 'frittered away' by calling a tax indirect when it is in

fact direct." *Pollock v. Farmers' Loan and Trust Co.*, 157 U.S. 429, 580?1, 583 (1895). "That decision affirms the great principle that what cannot be done directly (direct taxation) because of constitutional restriction cannot be accomplished indirectly by legislation which accomplishes the same result." *Fairbanks v. U.S.* 181 U.S. 283, 294 (1901). "If it be true by varying the form the substance may be changed, it is not easy to see that anything would remain of the limitations of the constitution, or of the rule of taxation and representation, so carefully recognized and guarded in favor of the citizen of each state. But constitutional provisions cannot be thus evaded. It is the substance, and not the form, which controls, as has been established by repeated decisions of this court." *Id.* At 296.

The Constitution of the United States of America and Case law shows that capitation taxes and taxes on my personal private property are in the category of direct taxes as being applied to me today by Oakland County, but which must be apportioned among the States as required by the United States Constitution if it is a direct tax. (See Supreme Court Case law – *Penn Mutual Indemnity Co. v. C.I.R.*, 277 F.2d 16, 19-20 (3rd Cir. 1960); *Steward Machine Co. v. Davis*, 301 U.S. 548, 581-582 (1937)). The Constitution of the United States of America and Case law shows that since capitation taxes and taxes on my personal private property must be apportioned among the States in accordance with the United States Constitution, and my personal private property tax is NOT being legally apportioned among the States (or Colorado state) by Oakland County, they must, therefore, be in the category of indirect taxes, which are taxes imposed on the happening of an event or activity. "Direct taxes bear immediately upon persons, upon possessions and enjoyments of rights. Indirect taxes are levied upon the happening of an event..." *Knowlton v. Moore*. 178 U.S. 41. See also, *Tyler v. United States*, 281 U.S. 497, at 502 (1930) "A tax laid upon the happening of an event as distinguished from its tangible fruits, is an indirect tax..." *Tyler v. U.S.* 497 at pg 502 (1930) "A tax levied upon property because of its ownership is a direct tax, whereas one levied upon property because of its use is an excise, duty or impost." *Manufactures' Trust Co. vs. U.S.*, 32 F. Supp. 289. "A state may not impose a charge for the enjoyment of a right granted by the Federal Constitution." *Murdock vs. Com. of Penn.*, 319 US 105, at 113; 63 S Ct at 875; 87 L Ed at 1298 (1943) All Citizens have the right to a home and personal property, and this property cannot be taxed unless in accordance with the two forms of Constitutional taxation mentioned above. "Keeping in mind the well settled rule, that the citizen is exempt from taxation, unless the same is imposed by clear and unequivocal language, and that where the construction of a tax is doubtful, the doubt is to be resolved in favor of those upon whom the tax is sought to be laid." *Spreckles Sugar Refining Co. vs. McLain*: 192 US 39.

In Oakland County records or documentation, I do not find any tax imposed on any activities I am involved in as rights under the Constitution, nor do I find a section in the Michigan Statutes or county law that makes me subject to or liable for any direct or indirect, unconstitutionally applied private property tax.

Therefore: (1). I am not in receipt of any documentation showing what type of taxes I was being assessed for, direct, indirect or named other type of tax. (2). I am not in receipt of any documentation showing Oakland County's legal and constitutional authority, including statutory law (positive law) to tax, directly or indirectly, my personal, private property, since it was being applied as neither direct nor indirect according to law. (3). I am not in receipt of any documentation showing I was legally liable for private property taxes applied contrary to the Constitution of the U.S.A. (4). I am not in receipt of any documentation showing the name of the responsible party who authorizes said personal property taxes, and their jurisdiction on this issue, nor signature and printing of that name included in the document. (5). I am not in receipt of any documentation showing why I was liable for the years 2008, and 2009 itemized taxes being assessed against me, nor documentation showing the benefits I personally received for each of these taxes... i.e. how was I being represented by these taxes. (6). I am not in receipt of any documentation showing the method of assessment, the rules for assessment, the financial criteria used for this assessment or copy of any independent, certified appraisal of said property. (7). I am not in receipt of any documentation showing the name and company name of independent appraiser, or the legal, certified status of said appraisal.

### FOIA REQUEST

1. Documentation regarding which type of tax my private property County taxes fell under; "direct" or "indirect," or other taxing category, naming the specific category.
2. Please provide certified documents showing Oakland County's legal and constitutional authority, including statutory law (positive law) to tax, directly or indirectly, my personal, private property, including on land and home, since it was being applied as neither direct nor indirect.
3. Please provide documentation of who the responsible party is who authorized said taxes, and their jurisdiction on this issue, to include signature and printing of that name on this document. There must be statutory law (positive law) that exists which allows this taxation, but it cannot be in conflict with the Constitution;
4. Please provide documentation on how I was being represented by the following taxes being

assessed against my personal property:

**(List all taxes on your assessment)**

5. Please provide documentation showing the **method of assessment**, the rules for assessment, the financial criteria used for this assessment, and copy of independent, certified appraisal of said property.

6. Please provide a complete record of all taxes paid by me on the property listed below, since purchase on January 16, 2004, to include itemization of taxes for land, taxes for buildings on said land, or any other taxed item.

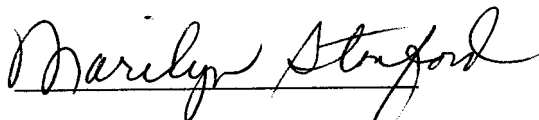
7. Please provide documentation of who actually signs/verifies/authenticates the assessments on real and personal property, and on any delinquency notices for unpaid taxes. An unsigned assessment is insufficient legal notice and a nullity, unless you can document and verify otherwise.

My right to not be taxed illegally or unconstitutionally stands firm in law, but this right appears to me to have been violated through forced private property taxation by Oakland County, and the exercise of my right to not be illegally taxed can be "converted into a crime" for not paying these taxes.

#### CONCLUSION

It is a crime for any government office or any official to auction or otherwise sell in any way, private or business property of any individual WITHOUT FIRST HAVING DUE PROCESS OF LAW, to determine the cause of action and the recourse in law. The sale of any property outside this means is illegal, and all those involved with such a sale, including those purchasing said property, are personally liable for damages, and subject to criminal charges under Racketeering (RICO) laws, and for violation of civil and Due Process rights. All government officials have the "Greater Duty" to know the law and comply with it, and if you are involved with such an auction without Due Process for the owner, you are in breach of your fiduciary duty and you can be held personally liable by those harmed by this fraud. Any challenge to property taxation or property sale made by any citizen requires you to respond, point by point, and to "prove up" your position in law. The issue of real and personal property taxation is long overdue to be challenged. The premise is that for a personal property tax on a free sovereign, private individual to be legal, it must be Constitutional, and applied as the Constitution regulates it. Any other means makes the tax void in law. All citizens have the right

unless in Proportion to the Census or Enumeration herein before directed to be taken. The Texas Supreme Court, in **Neeley v. West Orange-Grove Consolidated Independent School District**, No. 04-1144 (Nov. 22, 2005), held that Texas school districts illegally use property taxes to pay for public education. The court ordered that the state must find a new way to finance schools by June 1 or classrooms will not open for the fall term. Property tax, is illegal, unconstitutional and tyrannical in its existence. A property tax is by definition, regardless of its use or where its directed, a claim by the state of ownership. You see, if there is the possibility to potentially losing something you own because you have been amiss in payments, you do not really own it. The Property tax is unconstitutional because it does not allow us to live in a truly free way and secure the blessings to our posterity. I quote the preamble. "We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence,[1] promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."...please make note of...and secure the Blessings and Liberty to ourselves and our Posterity...in that statement, you can infer that my property, i.e. wealth, land, possessions, is what the Framers had in mind in securing personal property to be passed down to the next generation ...a truly free society owns their property outright.

A handwritten signature in cursive script, appearing to read "Marilyn Stanford". The signature is written in dark ink and is positioned above the printed name.

Kenneth and Marilyn Stanford

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>1. Article Addressed to:</p> <p> <input type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.  <input type="checkbox"/> Print your name and address on the reverse so that we can return the card to you.  <input type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits. </p> <p> <i>Oakland County</i>  <i>Treasurer</i>  <i>Dept 479</i>  <i>1200 North Telegraph</i>  <i>Pontiac, Michigan</i>  <i>48341-0479</i> </p>		<p>A. Signature</p> <p><i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <input type="checkbox"/> C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p>	
<p>2. Article Number (Transfer from service label)</p> <p>PS Form 3811, February 2004</p>		<p>3. Service Type</p> <p> <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. </p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>Article Number 7010 2780 0000 7607 9992</p>		<p>Domestic Return Receipt</p> <p>102595-02-M-1540</p>	

UNITED STATES POSTAL SERVICE



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• Sender: Please print your name, address, and ZIP+4 in this box •

MARILYN STANFORD  
24065 ROCKINGHAM  
SOUTHFIELD, MI 48033

Exhibit B





ANDY MEISNER  
COUNTY TREASURER

## OAKLAND COUNTY TREASURER

1200 N. TELEGRAPH RD., DEPT 479  
PONTIAC, MI 48341-0479

April 28, 2011

JAMES VANLEUVEN  
CHIEF DEPUTY TREASURER

Kenneth Stanford  
24065 Rockingham  
Southfield, MI 48033

RE: FOIA Request - Undated and Received by the Oakland County Treasurer's Office via  
certified mail on April 25, 2011

Dear Mr. Stanford:

This is in response to the above-referenced FOIA request. Enclosed please find a copy of all documents of the Oakland County Treasurer's Office regarding property taxes for the tax years 2004 through 2010 on 24065 Rockingham, Southfield Michigan, Parcel Identification No: 24-29-329-002. Also enclosed please find a copy of Michigan's General Property Tax Act, MCL 211.1 et seq. These enclosures constitute all materials of the Oakland County Treasurer's Office that are responsive to your FOIA request.

### YOUR FURTHER LEGAL RIGHTS

To the extent that this response, in your opinion, constitutes a denial of your FOIA rights under the Michigan Freedom of Information Act, your statutory remedies under MCL 15.240, as required to be provided to you by the statute, are as follows:


#### MCL 15.240

1. (1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:
  - (a) Submit to the head of the public body (*as identified above*) a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.
  - (b) Commence an action in the circuit court to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny the request.
- (2) Within 10 days after receiving a written appeal pursuant to subsection (1)(a), the head of the public body shall do one of the following:
  - (a) Reverse the disclosure denial.

- (b) Issue a written notice to the requesting person upholding the disclosure denial.
  - (c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.
  - (d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of the public body shall not issue more than one notice of extension for a particular written appeal.
- (3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing an action in the circuit court under subsection (1)(b).
- (4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. The circuit court of the county in which the complainant resides or has his or her principal place of business, or the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.
- (5) An action commenced under this section and appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.
- (6) If a person asserting the right to inspect, copy, or to receive a copy of all or a portion of a public record prevails in an action commenced under to this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or the public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection .
- (7) If the circuit court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$500.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public

body, that is not an individual and that kept or maintained the public record as a part of its public function.

Very truly yours,

A handwritten signature in cursive script that reads "Cassie L. Patterson".

Cassie L. Patterson, Chief Tax Administration  
Oakland County Treasurer's Office

Enc.

who is engaged in the business of and who is actually extracting, producing or processing such minerals in the state of Michigan.

The ownership of metallic mineral rights separate from the surface rights in land shall be prima facie evidence of the presence and existence of metallic mineral resources in such land and that such metallic mineral rights have a prima facie true cash value of \$5.00 per acre. The term "property", "land" and "parcel" as used in this act shall refer to and include mineral rights or surface rights separately assessed under this section: Provided, however, That the fact that such rights are separately assessed in the case of common ownership of the same shall not invalidate such assessment or any proceedings had in regard thereto under this act nor shall the same constitute grounds for rejecting the assessment or the taxes levied pursuant thereto. The first assessment under the provisions of this section shall be made the second calendar year immediately following the year in which this section becomes effective. On or before December 31, 1967 owners of surface rights and of mineral rights whose respective rights are subject to separate assessment as herein provided shall file with the assessing officer of the township, village or city in which the land containing such separate surface or mineral rights is situated an affidavit containing an accurate description of each parcel of land in which such separate surface or mineral rights is contained, with the number of acres contained therein, and a statement of their surface or mineral rights therein.

**History:** Add. 1966, Act 288, Imd. Eff. July 12, 1966;—Am. 1967, Act 143, Imd. Eff. June 27, 1967.

**Popular name:** Act 206

## REAL ESTATE EXEMPTIONS.

### 211.7 Federal property.

Sec. 7. Public property belonging to the United States is exempt from taxation under this act. This exemption shall not apply if taxation of the property is specifically authorized by federal legislative action or federal administrative rule, regulation, or lease.

**History:** 1893, Act 206, Eff. June 12, 1893;—CL 1897, 3830;—Am. 1901, Act 44, Eff. Sept. 5, 1901;—Am. 1909, Act 309, Eff. Sept. 1, 1909;—Am. 1911, Act 174, Eff. Aug. 1, 1911;—CL 1915, 4001;—Am. 1919, Act 331, Eff. Aug. 14, 1919;—Am. 1925, Act 55, Eff. Aug. 27, 1925;—Am. 1927, Act 118, Imd. Eff. May 7, 1927;—CL 1929, 3395;—Am. 1931, Act 42, Imd. Eff. Apr. 23, 1931;—Am. 1933, Act 243, Eff. Oct. 17, 1933;—Am. 1939, Act 232, Eff. Sept. 29, 1939;—Am. 1941, Act 125, Imd. Eff. May 26, 1941;—Am. 1942, 2nd Ex. Sess., Act 8, Imd. Eff. Feb. 25, 1942;—Am. 1943, Act 131, Imd. Eff. Apr. 13, 1943;—Am. 1945, Act 76, Imd. Eff. Apr. 10, 1945;—Am. 1946, 1st Ex. Sess., Act 24, Imd. Eff. Feb. 26, 1946;—CL 1948, 211.7;—Am. 1949, Act 24, Imd. Eff. Mar. 29, 1949;—Am. 1949, Act 55, Eff. Sept. 23, 1949;—Am. 1951, Act 169, Eff. Sept. 28, 1951;—Am. 1952, Act 54, Eff. Sept. 18, 1952;—Am. 1955, Act 46, Imd. Eff. Apr. 29, 1955;—Am. 1958, Act 190, Eff. Sept. 13, 1958;—Am. 1960, Act 155, Eff. Aug. 17, 1960;—Am. 1961, Act 238, Eff. Sept. 8, 1961;—Am. 1963, Act 148, Eff. Sept. 6, 1963;—Am. 1966, Act 320, Imd. Eff. July 19, 1966;—Am. 1968, Act 342, Eff. Dec. 31, 1968;—Am. 1971, Act 109, Imd. Eff. Sept. 10, 1971;—Am. 1971, Act 189, Imd. Eff. Dec. 20, 1971;—Am. 1974, Act 358, Eff. Apr. 1, 1975;—Am. 1976, Act 135, Imd. Eff. May 27, 1976;—Am. 1976, Act 432, Imd. Eff. Jan. 11, 1977;—Am. 1978, Act 54, Imd. Eff. Mar. 10, 1978;—Am. 1980, Act 142, Imd. Eff. June 2, 1980.

**Popular name:** Act 206

### 211.7a Definitions; exemption affidavit; mailing; return; notice of availability; failure to send or receive exemption affidavit; payment to local unit required to mail exemption affidavits; reimbursement claim for expenses.

Sec. 7a. (1) As used in this section:

(a) "Exemption affidavit" means the form prescribed by the department of treasury upon which the owner certifies that the property is the homestead of the owner. The information which shall be required on an exemption affidavit shall include the name and address of the owner of the property, an identification of whether the property is an integral part of a larger assessment unit or of a multipurpose or multidwelling building, the social security numbers of the owner signing the exemption affidavit and each resident in the homestead with an ownership interest, an identification by address or legal description of the property for which the exemption affidavit is filed, and the parcel identification number.

(b) "Domicile" means a place where an individual has his or her true, fixed, and permanent home, to which, whenever absent therefrom, the individual intends to return.

(c) "Homestead" means a dwelling or a unit in a multipurpose or multidwelling building which is subject to ad valorem taxes and which is owned and occupied as the principal domicile by the owner thereof.

When a homestead is an integral part of a larger unit of assessment such as commercial, industrial, developmental, residential, timber cutover, or a multipurpose or multidwelling building, the tax on the homestead shall be the same proportion of the total property tax as the proportion of the value of the homestead is to the total value of the assessed property.

(d) "Owner" means the holder of legal title if a land contract does not exist, or the most recent land

contract vendee.

(2) Each city and township shall cause to be mailed, on or before May 1, 1981, an exemption affidavit to the occupant of each piece of property within the city or township which is classified as residential or agricultural property and which contains a dwelling suitable for occupancy. Exemption affidavits shall be returned on or before May 22, 1981 to the local official of the city or township who shall be designated on the exemption affidavit. Exemption affidavits shall also be made available at each local unit of government after April 30, 1981. Each city and township may publish individually or jointly on or before May 10, 1981, in a newspaper of general circulation, notice of the availability of the exemption affidavit, that these exemption affidavits must be returned by May 22, 1981 in order to be eligible for the reduction of a 1981 property tax bill if Proposal A at the May 19, 1981 special election is approved, and that, if Proposal A at the May 19, 1981 special election is approved, an eligible owner of a homestead who fails to file an exemption affidavit by May 22, 1981 may submit a claim for a refund of taxes paid that were eligible to be exempted with the state department of treasury. The failure to send or receive the exemption affidavit shall not invalidate an ad valorem property tax levy on the property.

(3) The state treasurer shall cause to be paid on June 1, 1981 to each local unit required to make a mailing of exemption affidavits pursuant to subsection (2) the sum of 1 of the following:

(a) Thirty cents per exemption affidavit required to be mailed pursuant to subsection (2) if the local unit uses a state supplied exemption affidavit.

(b) Thirty-five cents per exemption affidavit required to be mailed pursuant to subsection (2) if the local unit does not use a state supplied exemption affidavit.

(4) Each local unit required to make a mailing of exemption affidavits pursuant to subsection (2) shall submit a reimbursement claim to the state treasurer by May 15, 1981 for the expenses described in subsection (3) related to this required mailing.

(5) On or before June 8, 1981, each local property tax collecting unit that is required to mail exemption affidavits shall submit a reimbursement claim of \$1.00 for each homestead on which ad valorem property taxes will be exempt from collection under the exemption provided by section 3 of article 9 of the state constitution of 1963, as amended by the voters on May 19, 1981. If more than 1 local treasurer collects ad valorem property taxes in the same calendar year on a homestead for which a claim is submitted under this subsection, each local property tax collecting unit which does not receive the \$1.00 per homestead reimbursement under this subsection, shall submit, on or before June 8, 1981 for each of these local property tax collecting units that collect a summer tax levy and on or before November 1, 1981 for each of these local property tax collecting units that collect a winter tax levy, a reimbursement claim of 10 cents for each homestead on which ad valorem property taxes will be exempt from collection under the exemption provided by section 3 of article 9 of the state constitution of 1963, as amended by the voters on May 19, 1981. The state treasurer shall require disbursements to be made by June 20, 1981 if the claim is required on or before June 8, 1981 or by November 20, 1981 if the claim is required on or before November 1, 1981, for the amount of the qualified claims submitted under this subsection, which amount shall be for the necessary costs of implementation of the exemptions provided by the exemption provided by section 3 of article 9 of the state constitution of 1963, as amended by the voters on May 19, 1981.

(6) If, in 1981 only, a local property tax collecting units seeks reimbursement for any additional necessary administrative costs in excess of the amounts provided in subsections (3) and (5), the local property tax collecting unit shall file a claim pursuant to Act No. 101 of the Public Acts of 1979, being sections 21.231 to 21.244 of the Michigan Compiled Laws.

**History:** Add. 1981, Act 6, Imd. Eff. Apr. 16, 1981.

**Compiler's note:** Section 2 of Act 6 of 1981 provides: "Section 7a(5) and (6) shall take effect on the date the state board of canvassers certifies to the secretary of state that Proposal A on the statewide May 19, 1981 special election ballot has been approved by the voters."

Section 3 of Act 6 of 1981 provides: "Sections 7a(1), (2), (5), and (6), 34d(13), and 44a shall expire on the date the state board of canvassers certifies to the secretary of state that Proposal A on the statewide May 19, 1981 special election ballot has been rejected by the voters."

Proposal A, referred to in Sections 2 and 3 of Act 6 of 1981, was submitted to and disapproved by the people at the special election held on May 19, 1981. The state board of canvassers, also referred to in Sections 2 and 3, certified to the secretary of state on May 27, 1981, that Proposal A had been rejected by the voters.

Sec. 7a, as added by Act 6 of 1981, was amended by Act 41 of 1981 to read as follows:

"Sec. 7a.

(1) After application of section 34d, the remaining ad valorem property taxes imposed for operating purposes pursuant to this act on the homestead of an individual who is a resident of this state which is subject to assessment, equalization, and the levy of a tax pursuant to this act shall be exempt from collection in an amount equal to 50% of the taxes imposed for operating purposes upon the homestead up to a maximum of \$1,400.00 as adjusted pursuant to subsection (6).

"(2) As used in this section:

"(a) "Exemption affidavit" means the form prescribed pursuant to subsection (5) by the department of treasury upon which the owner

Rendered Thursday, April 21, 2011

Page 5

Michigan Compiled Laws Complete Through PA 20 of 2011



certifies that the property is the homestead of the owner.

"(b) 'Domicile' means a place where an individual has his or her true, fixed, and permanent home, to which, whenever absent therefrom, the individual intends to return.

"(c) 'Homestead' means a dwelling or a unit in a multipurpose or multidwelling building, which is subject to ad valorem taxes and which is owned and occupied as the principal domicile by the owner thereof. A homestead shall include a portion of cooperatively owned housing in which a person is residing, if the cooperatively owned housing is owned either by a nonprofit cooperative organization or by a cooperative organization in which more than 50% of the organization's shares are owned by occupants in the organization's cooperatively owned housing.

"When a homestead is located on leased land and is listed as personal property on the assessment roll, or is an integral part of a larger unit of assessment such as commercial, industrial, developmental, residential, timber cutover, or a multipurpose or multidwelling building, the tax on the homestead shall be the same proportion of the total property tax as the proportion of the value of the homestead is to the total value of the assessed property. A homestead shall include all of the adjacent and contiguous unoccupied real property not classified for ad valorem property tax purposes as agricultural and all unoccupied real property classified for ad valorem tax purposes as agricultural, regardless of whether the owner of this property also is the owner of a domicile, except that, if the gross receipts of the agricultural or horticultural operations in the previous year or the average annual gross receipts in the previous 3 years do not exceed the household income of the owner in the previous year, or if there are no gross receipts in the previous year, all of the adjacent and contiguous unoccupied agricultural or horticultural lands shall be considered a homestead.

"(d) 'Household income' means that term as defined by section 508(4) of Act No. 281 of the Public Acts of 1967, as amended, being section 206.508 of the Michigan Compiled Laws.

"(e) 'Owner' means the holder of legal title, except that if the holder of legal title is also a land contract vendor for the property the owner shall be the most recent land contract vendee, or if the holder of legal title is an estate or a trust, the owner shall be the beneficiary of the estate or trust.

"(f) 'Taxes imposed for operating purposes' means all ad valorem property taxes other than ad valorem property taxes specifically levied to repay the principal and interest due on the following types of obligations of the unit of local government.

"(i) A bond or note issued to fund capital expenses that is subject to or incurred pursuant to the procedures or authorization of Act No. 202 of the Public Acts of 1943, as amended, being sections 131.1 to 138.2 of the Michigan Compiled Laws.

"(ii) A bond or note, other than a judgment obligation or a tax anticipation note, issued to fund past or future operating expenses, if and to the extent ad valorem property taxes levied to repay principal and interest are in addition to charter or statutory limitations as authorized by section 1a of Chapter VII of Act No. 202 of the Public Acts of 1943, as amended, being section 137.1a of the Michigan Compiled Laws.

"(3) Except as provided by subsections (4) and (9), to qualify to receive the benefit of the exemption provided by subsection (1) reflected in a reduction in a tax bill a taxpayer eligible to elect an exemption under subsection (1) annually shall file an exemption affidavit, which shall be included with or as part of the assessment notice under section 24c, on or before April 15 or a later date specified by the local tax collecting unit, with the local official designated by the taxpayer's tax collecting unit. A local tax collecting unit shall not reduce pursuant to this section the ad valorem property tax levy against a piece of property for which an exemption affidavit is filed if the local tax collecting unit has knowledge that the property does not qualify for an exemption under this section. The failure of an individual to receive or of the unit of local government to send the exemption affidavit shall not invalidate an ad valorem property tax levy on the property.

"(4) If a tax payer who is eligible to receive the benefit of an exemption under subsection (1) fails to make a timely filing of an exemption affidavit pursuant to subsection (3) or (9), the taxpayer may file for an exemption refund from the department of treasury for the amount of tax levied that was eligible for exemption. A filing may be made pursuant to this subsection within 4 years after the December 31 which follows the date on which the tax was due and payable. The department of treasury shall refund to a qualified taxpayer the tax levied that was eligible for exemption less any amount allowed the taxpayer as an income tax credit under section 520 of Act No. 281 of the Public Acts of 1967, as amended, being section 206.520 of the Michigan Compiled Laws, for the year for which an exemption refund is filed in excess of the income tax credit for that year under section 520 of Act No. 281 of the Public Acts of 1967, as amended, calculated using property taxes as reduced by the amount of the exemption refund for that year. An exemption refund made by the department of treasury under this subsection or subsection (9) shall be considered a refund to an individual who, by paying the tax eligible for exemption, has made a payment or return of a reimbursement to units of local government on behalf of the state for the exemption provided by this section.

"(5) The department of treasury shall prescribe the information required on the exemption affidavit to each assessing officer and shall prepare sample exemption affidavits. The information which shall be required on an exemption affidavit shall include the name and address of the owner of the property, an identification of whether the property is an integral part of a larger assessment unit or of a multipurpose or multidwelling building, the social security numbers of the owner who signs the exemption affidavit and each resident in the homestead with an ownership interest, an identification by address or legal description of the property for which the exemption affidavit is filed, the parcel identification number, and a statement requiring the signature of the owner to certify that the property qualified for the exemption provided by this section. In 1982 and each year thereafter the assessing officer shall mail the exemption affidavit with or as part of the notice required by section 24c. Exemption affidavits shall also be made available at each local unit of government.

"(6) The maximum amount of taxes which may be exempt under subsection (1) shall be adjusted by the state tax commission on the second Monday in May in 1982 and each year thereafter, pursuant to the percentage increase or decrease in the state equalized value of property in this state, excluding new construction and improvements, classified as residential and agricultural real property. The adjustment shall be made by multiplying the percentage increase or decrease in the state equalized value of property in this state, excluding new construction and improvements, classified as residential and agricultural real property by the amount of the prior year's maximum tax exemption. The resultant product shall be added to the prior year's maximum tax exemption and then rounded down to the nearest multiple of \$10.00. This figure shall be the new maximum amount of taxes which may be exempt for tax levies in the then current calendar year and shall be certified to the treasurer of each unit of local government by the state tax commission.

"(7) An individual who files an exemption affidavit pursuant to subsection (3) or (9) for purposes of exempting taxes on the individual's homestead from collection shall not be qualified either to file for another exemption affidavit pursuant to subsection (3) or (9) for tax levies in the same calendar year or to file for an exemption refund pursuant to subsection (4) for tax levies in the same calendar year. Upon filing of a qualified exemption affidavit pursuant to subsection (3) or (9) the taxes on the homestead to which the exemption affidavit applied shall be eligible for the exemption from collection provided by subsection (1) for tax levies in the year the qualified exemption affidavit was filed, regardless of any subsequent transfer, sale, or use of the property in that year.

"(8) A person who knowingly files an exemption affidavit pursuant to subsection (3) or (9) or an application for a refund under subsection (4) for tax levies in the same calendar year for more than 1 homestead, or who knowingly files an exemption affidavit pursuant to subsection (3) or (9) or an application for a refund under subsection (4) for which the taxpayer is not qualified or eligible, is guilty of a misdemeanor. A person who files, with an intent to defraud, an exemption affidavit pursuant to subsection (3) or (9) or an application for a refund under subsection (4) either for tax levies in the same calendar year for more than 1 homestead, or for a refund or exemption for which the person is not qualified or eligible, is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than \$5,000.00, or both.

"(9) Each city and township shall cause to be mailed, on or before May 1, 1981, an exemption affidavit to the occupant of each piece of property within the city or township which is classified as residential or agricultural property and, if determinable by the city or township, which contains a dwelling suitable for occupancy. In order to receive the benefit of an exemption provided by subsection (1) reflected as a reduction in their 1981 ad valorem property tax bill, an individual's exemption affidavit shall be returned on or before May 22, 1981, or a later date specified by the city or township, to the local official of the city or township who shall be designated on the exemption affidavit. Exemption affidavits shall also be made available at each local unit of government after April 30, 1981. Each city and township may publish individually or jointly on or before May 10, 1981, in a newspaper of general circulation, notice of the availability of the exemption affidavit, that these exemption affidavits must be returned by May 22, 1981 or the later date specified by the city or township in order to be eligible for the reduction of a 1981 property tax bill if Proposal A at the May 19, 1981 special election is approved, and that, if Proposal A at the May 19, 1981 special election is approved, an eligible owner of a homestead who fails to file an exemption affidavit by May 22, 1981 or the later date specified by the city or township may submit a claim for a refund of taxes paid that were eligible to be exempted with the state department of treasury. The failure to send or receive the exemption affidavit shall not invalidate an ad valorem property tax levy on the property. For ad valorem property tax levies in 1981 and each year thereafter, if an exemption affidavit includes an identification of the property as a unit in cooperatively owned housing, or as an integral part of a larger assessment unit or of a multipurpose or multidwelling building, the local tax collecting unit that received the exemption affidavit shall either determine that portion of the property which is considered a homestead under this section or, if the property is a unit in cooperatively owned housing, solicit additional information from the individual filing the exemption affidavit of that portion of the ad valorem property taxes to be levied in the calendar year against the cooperatively owned housing which will be attributed to the unit for which the individual files an exemption affidavit. After determination or receipt of this information the local tax collecting unit shall either make the appropriate reduction of ad valorem taxes against the property, or, if this determination cannot be made, or if this information is not received, by a date timely enough to allow for the reduction of the property tax bill, certify the amount of taxes eligible for exemption to the state treasurer. The state treasurer shall issue an exemption refund to the individual who filed a qualified exemption affidavit in the amount certified by the local tax collecting unit. In place of the procedures established by this subsection for the filing of exemption affidavits for, and solicitation of determinations of ownership interests for, a homestead which is a unit in cooperatively owned housing the department of treasury may provide for a unitary filing of exemption affidavits, and for the submission of exemption refund claims, for each eligible homestead in the cooperatively owned housing by a cooperative organization on behalf of, but signed by, the occupant of the cooperatively owned housing who is eligible to receive benefit of an exemption under this section.

"(10) A local unit of government shall adjust its subsequent ad valorem property tax levy against a piece of property to collect the value of an exemption which was deducted from the preceding tax levy against the property and not reimbursed by the state pursuant to the authority of section 9(1) of the local tax relief fund act. Upon request of the department of treasury and if ownership of the property has not changed since the tax levy for which an unqualified exemption was applied, a unit of local government shall adjust its subsequent ad valorem property tax levy against a piece of property to collect the value of an unqualified exemption which was deducted from a preceding property tax levy against the property. The additional ad valorem property taxes levied and collected by application of these adjustments for previously applied unqualified exemptions shall be remitted to the state treasurer.

"(11) If a homestead is located both within a city and a township or in more than 1 city, township, county, or school district and if the portion of the homestead upon which the domicile of the owner is located is within a taxing unit which collects ad valorem property tax at the same time that the analogous taxing unit or units collect from the balance of the homestead, the maximum exemption available under this section shall be allocated in a manner which allows it to be applied first against the applicable property tax levies for each taxing unit where the domicile of the owner of the homestead is located, and any unused portion then shall be applied, to the extent allowed by this section, against the applicable property tax levies for the analogous taxing unit or units in which the remainder of the homestead is located. If different local treasurers collect ad valorem property tax levies in the same year and on the same property, the local tax collecting treasurer for an ad valorem property tax levy on property against which another ad valorem property tax levy is also imposed shall forward the information contained in each exemption affidavit filed in the year for these properties, along with a notation for each homestead of the amount of tax that was exempted from collection pursuant to this section with the applicable ad valorem property tax levy, to each other local tax collecting treasurer who collects ad valorem property tax levies on the same property in that year. If property for which an exemption affidavit is filed has ad valorem property tax levies against it in the same year collected by a village treasurer, each township that receives exemption affidavits for these properties shall forward, by June 1 of each year, the information contained in each exemption affidavit filed in the year for these properties to the village treasurer. A local tax collecting treasurer who collects summer levies of ad valorem property taxes for operating purposes may apply a prorated portion of the maximum exemption allowed by this section for the year, as adjusted pursuant to subsection (6), against the summer property tax levies. This prorated portion shall be the same portion that the actual summer ad valorem property tax levy for operating purposes bears to the total actual summer and winter property tax levies for operating purposes in the year. If the actual winter property tax levy for operating purposes in the year is not known, the winter levy of ad valorem property taxes for operating purposes in the immediately preceding year may be used in determining the proportion. If the local tax collecting treasurer who collects summer ad valorem property taxes decides to use a prorated portion of the maximum exemption allowed by this section in determining the exemption applied against the summer property tax levies, this prorated portion shall be again prorated among each unit of local government for which the local tax collecting treasurer collects a summer levy according to the percentage that the actual summer ad valorem property tax levy for operating purposes for each respective taxing unit bears to the aggregate actual summer ad valorem property tax levies for operating purposes for the respective taxing units.

"(12) In 1981 only each local tax collecting treasurer that receives from a financial institution an identification of properties from which the local tax collecting treasurer collects ad valorem property taxes and for which the financial institution has established an escrow account for purposes of paying ad valorem property tax, shall forward at 1 time on or before July 1, 1981 to the financial institution an identification of each property identified by the financial institution for which an exemption affidavit has been filed and for which the exemption from collection provided by this section will apply and be reflected as a reduction in the tax bill.

"(13) The state treasurer shall cause to be paid on June 1, 1981 to each local unit required to make a mailing of exemption affidavits

pursuant to subsection (9) the sum of 1 of the following:

"(a) Thirty cents per exemption affidavit required to be mailed pursuant to subsection (9) if the local unit uses a state supplied exemption affidavit.

"(b) Thirty-five cents per exemption affidavit required to be mailed pursuant to subsection (9) if the local unit does not use a state supplied exemption affidavit.

"(14) Each local unit required to make a mailing of exemption affidavits pursuant to subsection (9) shall submit a reimbursement claim to the state treasurer by May 15, 1981 for the expenses described in subsection (13) related to this required mailing."

Section 2 of Act 41 of 1981 provides:

"(1) Except as provided by subsections (2) and (3), this amendatory act shall not take effect unless House Joint Resolution G of the 81st Legislature becomes a part of the constitution as provided in section 1 of article 12 of the state constitution of 1963.

"(2) Section 7a(8), (9), (12), (13), and (14) of this amendatory act shall take immediate effect, but shall expire on the date the state board of canvassers certifies to the secretary of state that Proposal A on the statewide May 19, 1981 special election ballot has been rejected by the voters.

"(3) Sections 7a(11) and 34d(3), (4), (7), (9), (10), (11), (17), and (18) of this amendatory act shall take effect on the date the state board of canvassers certifies to the secretary of state that Proposal A on the statewide May 19, 1981 special election ballot has been approved by the voters."

Proposal A, referred to in Sections 2 and 3 of Act 41 of 1981, was submitted to and disapproved by the people at the special election held on May 19, 1981. The state board of canvassers, also referred to in Sections 2 and 3, certified to the secretary of state on May 27, 1981, that Proposal A had been rejected by the voters.

Former MCL 211.7a, pertaining to real estate used and owned as homestead by blind person, was repealed by Act 20 of 1973.

**Popular name:** Act 206

### **211.7b Exemption of real estate used and owned as homestead by soldier or sailor discharged with service connected disability; filing and inspection of certificate and affidavit; cancellation of taxes; local taxing unit to bear loss; death of soldier or sailor; continuation of exemption in favor of unremarried surviving spouse.**

Sec. 7b. (1) Real estate used and owned as a homestead by a soldier or sailor who was discharged under honorable conditions with a service connected disability, and who has a certificate from the United States veterans' administration, or its successors, certifying the soldier or sailor is receiving or has received pecuniary assistance due to disability for specially adapted housing, shall be exempt from taxation. To obtain the exemption an affidavit, accompanied by the certificate, showing the facts required by this section and a description of the property shall be filed with the supervisor or other assessing officer. The affidavit and accompanying certificate shall be filed during the period beginning with the tax day for each year and ending at the time of the final adjournment of the local board of review. The affidavit and accompanying certificate when filed shall be open to inspection. The county treasurer is hereby authorized, pursuant to section 55, to cancel the taxes for any year in which a soldier or sailor has acquired title to real estate exempt under this section. Upon the granting of the exemption as allowed in this section, each local taxing unit shall bear the loss of their portion of the taxes upon which the exemption has been claimed and allowed.

(2) If a soldier or sailor entitled to the exemption permitted by this section dies, the exemption shall continue in favor of the unremarried surviving spouse of the soldier or sailor. The spouse shall comply with the requirements of subsection (1) and shall indicate on the affidavit that he or she is the surviving spouse of a soldier or sailor entitled to exemption by this section. The exemption shall continue as long as the surviving spouse remains unremarried.

**History:** Add. 1954, Act 179, Imd. Eff. May 5, 1954;—Am. 1978, Act 261, Imd. Eff. June 28, 1978.

**Popular name:** Act 206

### **211.7c Repealed. 1973, Act 20, Eff. Dec. 31, 1973.**

**Compiler's note:** The repealed section pertained to homesteads of persons over 65 years of age.

**Popular name:** Act 206

### **211.7d Housing exemption for elderly or disabled families; definitions.**

Sec. 7d. (1) Housing owned and operated by a nonprofit corporation or association, by a limited dividend housing corporation, or by this state, a political subdivision of this state, or an instrumentality of this state, for occupancy or use solely by elderly or disabled families is exempt from the collection of taxes under this act. For purposes of this section, housing is considered occupied solely by elderly or disabled families even if 1 or more of the units is occupied by service personnel, such as a custodian or nurse.

(2) An owner of property may claim an exemption under this section on a form prescribed by the department of treasury. The assessor of the local tax collecting unit in which the property is located shall approve or disapprove a claim for exemption under this section. The assessor shall notify the owner and the department of treasury in writing of the exemption's approval or disapproval. The department of treasury may deny an exemption under this section. An exemption under this section begins on December 31 of the year in which the exemption is approved under this subsection and shall continue until the property is no longer used



for occupancy or use solely by elderly or disabled families. The owner of property exempt under this section shall notify the local tax collecting unit in which the property is located and the department of treasury of any change in the property that would affect the exemption under this section.

(3) If property for which an exemption is claimed under this section would have been subject to the collection of taxes under this act if an exemption had not been granted under this section, the state treasurer, upon verification, shall make a payment in lieu of taxes, which shall be in the following amount:

(a) For property exempt under this section before January 1, 2009, the amount of taxes paid on that property for the 2008 tax year, excluding any mills that would have been levied under all of the following:

(i) Section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

(ii) The state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(b) For property not exempt under this section before January 1, 2009 and for new construction to property exempt under this section before January 1, 2009, the local tax collecting unit shall calculate, on a form prescribed by the department of treasury, a payment calculated by multiplying the taxable value of the property in the first year for which the exemption is valid by the number of mills levied in that year by all taxing units in the local tax collecting unit, excluding any mills that would have been levied under all of the following:

(i) Section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

(ii) The state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(4) All payments under subsection (3) shall be forwarded to the local tax collecting unit by December 15 each year. The department of treasury may require that the local tax collecting units receive payments under this section through electronic funds transfer.

(5) The local tax collecting unit shall distribute the amount received under subsection (4) in the same manner and in the same proportions as general ad valorem taxes collected under this act, excluding any distribution that would have been made under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, and the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(6) The state treasurer shall estimate the amount necessary to meet the expense of administering the provisions of this section in each year, and the legislature shall appropriate an amount sufficient to meet that expense in each year. If insufficient funds are appropriated to fully pay all payments, the department of treasury shall prorate the payments made under this section.

(7) Property that is used for occupancy or use solely by elderly or disabled families that is eligible for exemption under this section is not subject to forfeiture, foreclosure, and sale for taxes returned as delinquent under this act for any year in which the property was exempt under this section.

(8) The department of treasury has standing to appeal the assessed value, taxable value, state equalized valuation, exempt status, classification, and all other issues concerning tax liability for property exempt under this section in the Michigan tax tribunal and all courts of this state.

(9) As used in this section:

(a) "Disabled person" means a person with disabilities.

(b) "Elderly or disabled families" means families consisting of 2 or more persons if the head of the household, or his or her spouse, is 62 years of age or over or is a disabled person, and includes a single person who is 62 years of age or over or is a disabled person.

(c) "Elderly person" means that term as defined in section 202 of title II of the housing act of 1959, Public Law 86-372, 12 USC 1701q.

(d) "Housing" means new or rehabilitated structures with 8 or more residential units in 1 or more of the structures for occupancy and use by elderly or disabled persons, including essential contiguous land and related facilities as well as all personal property of the corporation, association, or limited dividend housing corporation used in connection with the facilities.

(e) "Limited dividend housing corporation" means a corporation incorporated or qualified under the laws of this state and chapter 6 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1481 to 125.1486, or a limited dividend housing association organized and qualified under chapter 7 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1491 to 125.1496, that will rehabilitate and own a housing facility or project previously qualified, built, or financed under section 202 of title II of the housing act of 1959, Public Law 86-372, 12 USC 1701q, section 236 of title II of the national housing act, chapter 847, 82 Stat. 498, 12 USC 1715z-1, or section 811 of subtitle B of title VIII of the Cranston-Gonzalez national affordable housing act, Public Law 101-625, 42 USC 8013.

(f) "New construction" means that term as defined in section 34d.

(g) "Nonprofit corporation or association" means a nonprofit corporation or association incorporated under the laws of this state not otherwise exempt from the collection of taxes under this act, operating a housing facility or project qualified, built, or financed under section 202 of title II of the housing act of 1959, Public

Law 86-372, 12 USC 1701q, section 236 of title II of the national housing act, chapter 847, 82 Stat. 498, 12 USC 1715z-1, or section 811 of subtitle B of title VIII of the Cranston-Gonzalez national affordable housing act, Public Law 101-625, 42 USC 8013.

(h) "Person with disabilities" means that term as defined in section 811 of subtitle B of title VIII of the Cranston-Gonzalez national affordable housing act, Public Law 101-625, 42 USC 8013.

(i) "Residential units" includes 1-bedroom units licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, for persons who share dining, living, and bathroom facilities and who have a mental illness, developmental disability, or a physical disability, as those terms are defined in the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or individual self-contained dwellings in an unlicensed facility. At the time of construction or rehabilitation, both self-contained dwellings and 1-bedroom units must be financed either under section 202 of title II of the housing act of 1959, Public Law 86-372, 12 USC 1701q, or under section 811 of subtitle B of title VIII of the Cranston-Gonzalez national affordable housing act, Public Law 101-625, 42 USC 8013.

**History:** Add. 1966, Act 312, Imd. Eff. July 14, 1966;—Am. 1978, Act 54, Imd. Eff. Mar. 10, 1978;—Am. 1987, Act 200, Imd. Eff. Dec. 16, 1987;—Am. 1998, Act 39, Eff. Dec. 19, 1998;—Am. 1998, Act 469, Imd. Eff. Jan. 4, 1999;—Am. 2008, Act 585, Imd. Eff. Jan. 20, 2009;—Am. 2010, Act 8, Eff. Dec. 31, 2009.

**Compiler's note:** For transfer of senior citizen's cooperative housing tax exemption payments program to the Michigan State Housing Development Authority, Department of Commerce, see E.R.O. No. 1989-2, compiled at MCL 125.1391 of the Michigan Compiled Laws.

Enacting section 1 of Act 585 of 2008 provides:

"Enacting section 1. It is the intent of the legislature that this amendatory act confirm that the department of treasury has standing to appeal the assessed value, taxable value, state equalized valuation, exempt status, classification, and all other issues concerning tax liability in the Michigan tax tribunal and all courts of this state for property exempt under section 7d of the general property tax act, 1893 PA 206, MCL 211.7d."

Enacting section 1 of Act 8 of 2010 provides:

"Enacting section 1. This amendatory act is effective December 31, 2009."

**Popular name:** Act 206

#### **211.7e Deciduous and evergreen trees, shrubs, plants, bushes, and vines; public right of way on surface of real property being assessed.**

Sec. 7e. (1) The value of deciduous and evergreen trees, shrubs, plants, bushes, and vines, whether annual or perennial, growing on agricultural land devoted to agricultural purposes shall be exempt from taxation. The assessment of agricultural real property shall be made without regard to any enhancement in value of the agricultural real property by reason of the deciduous and evergreen trees, shrubs, plants, bushes, or vines. Nothing herein contained shall affect the taxation of growing timber.

(2) The value of land over the surface of which is located a public right of way shall not be considered when the real property is being assessed.

**History:** Add. 1966, Act 268, Eff. Mar. 10, 1967;—Am. 1976, Act 386, Imd. Eff. Dec. 28, 1976.

**Popular name:** Act 206

#### **211.7f Repealed. 1973, Act 20, Eff. Dec. 31, 1973.**

**Compiler's note:** The repealed section pertained to veterans' and servicemen's homestead exemption.

**Popular name:** Act 206

#### **211.7g Seawall, jetty, groin, dike, or other structure.**

Sec. 7g. The value of a seawall, jetty, groin, dike, or other structure whose primary purpose is to prevent or control erosion or prevent or control inundation or flooding on property affected by waters or levels of the Great Lakes or their connecting waters and tributaries as affected by levels of the Great Lakes is exempt from taxation. The department of natural resources shall, when requested by the owner or the assessor, determine if such seawall, jetty, groin, dike, or other structure has as its primary purpose the prevention or control of erosion.

That portion of structures which are modified or designed to provide benefits other than erosion control or flood prevention are not exempt from assessment for property tax.

**History:** Add. 1973, Act 187, Imd. Eff. Jan. 8, 1974;—Am. 1976, Act 165, Imd. Eff. June 21, 1976.

**Compiler's note:** For transfer of powers and duties of department of natural resources to department of natural resources and environment, and abolishment of department of natural resources, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

**Popular name:** Act 206

#### **211.7h Definitions; application for solar, wind, or water energy tax exemption certificate; filing; form; concurrent applications; findings and approval of department of commerce;**

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**issuance and effective date of certificate; valuation of covered energy conservation device exempt from property taxes; statement of total acquisition cost; sending certificate or notification of refusal; revocation of certificate; notification; appeal; issuance of new certificate prohibited; necessity of obtaining construction permit; effective date of section.**

Sec. 7h. (1) As used in this section:

(a) "Solar, wind, or water energy conversion device" means a mechanism or series of mechanisms designed primarily to collect, convert, transfer, or store for future use solar, wind, or water energy for the purposes of heating, cooling, or electric supply but not those parts of a heating, cooling, or electric supply system that would be required regardless of the energy source being utilized. Solar, wind, or water energy conversion device includes a solar swimming pool heating device.

(b) "Water energy conversion device" includes only those devices that utilize groundwater heat pumps or low head hydroenergy conversion systems. Low head hydroenergy conversion systems shall not include public utility property.

(c) "Solar, wind, or water energy tax exemption certificate" means a certificate issued by the state tax commission entitling a solar, wind, or water energy conversion device to exemption from real and personal property taxes.

(2) An application for a solar, wind, or water energy tax exemption certificate shall be filed with the department of commerce in such form as may be prescribed by the state tax commission and the department of commerce. This application may be filed concurrently with any application for any other tax credit for the device which is provided by law, and the department of treasury and the department of commerce shall make it possible to apply concurrently.

(3) Before issuing a certificate, the state tax commission shall seek approval of the department of commerce.

(4) If the department of commerce finds that the facility is a solar, wind, or water energy conversion device which meets the standards set by the department of commerce for solar, wind, or water energy conversion devices under section 262 of Act No. 281 of the Public Acts of 1967, as amended, being section 206.262 of the Michigan Compiled Laws, or if the department of commerce finds that the facility is a solar, wind, or water energy conversion device used for commercial or industrial purposes in the state or a solar swimming pool heating device, the department of commerce shall so notify the state tax commission who shall issue a certificate. The effective date of the certificate shall be December 31 of the year in which the certificate is issued.

(5) For the period subsequent to the effective date of the certificate and continuing so long as the certificate is in force, the valuation of a solar, wind, or water energy conversion device covered thereby is exempt from real and personal property taxes imposed under this act. The certificate shall state the total acquisition cost of the device.

(6) The state tax commission shall send a solar, wind, or water energy tax exemption certificate, when issued, or a notification of refusal to issue, by first class mail to the applicant, and a copy to the township or city assessor.

(7) The state tax commission may revoke a solar, wind, or water energy tax exemption certificate where the certificate was obtained by fraud or misrepresentation, and, when a certificate is revoked because it was obtained by fraud or misrepresentation, all taxes which would have been payable if a certificate had not been issued shall be immediately due and payable with the maximum interest and penalties prescribed by applicable law. Any statute of limitations shall not operate in the event of fraud or misrepresentation. The state tax commission shall notify the applicant and the township or city assessor by first class mail of the revocation of a solar, wind, or water energy tax exemption certificate.

(8) A party aggrieved by the issuance, refusal to issue, revocation, or modification of a solar, wind, or water energy tax exemption certificate may appeal from the state tax commission's finding to the state tax tribunal.

(9) A new solar, wind, or water energy tax exemption certificate shall not be issued for a solar, wind, or water energy conversion device if installation of the device is completed after December 31, 1983. All exemptions granted shall remain in force unless revoked under subsection (7).

(10) This section shall not be deemed to preclude the necessity of obtaining a permit for construction required by any other law or ordinance.

(11) This section shall take effect December 31, 1975.

**History:** Add. 1976, Act 135, Imd. Eff. May 27, 1976;—Am. 1981, Act 232, Imd. Eff. Jan. 13, 1982;—Am. 1982, Act 539, Eff. Mar. 30, 1983;—Am. 1983, Act 245, Imd. Eff. Dec. 1, 1983.

**Popular name:** Act 206

**211.7i "Existing facility" defined; tax exemption for increased value of existing facility.**

Sec. 7i. (1) As used in this section, "existing facility" means a structure which has, or is being converted to have, as its primary purpose multifamily housing consisting of 5 or more units and is located in a downtown development district established pursuant to Act No. 197 of the Public Acts of 1975, as amended, being sections 125.1651 to 125.1680 of the Michigan Compiled Laws, within a city, village, or township in which a commercial housing facilities exemption certificate may be issued pursuant to Act No. 438 of the Public Acts of 1976, as amended, being sections 207.601 to 207.615 of the Michigan Compiled Laws.

(2) Upon approval of the city or village in which an existing facility is located or the township if the existing facility is not located in a village within that township, the increase in value to the existing facility attributable to expenditures for repair, replacement, or restoration of a portion of the facility or the increase in value attributable to expenditures for conversion to an existing facility is exempt from taxation under this act commencing with the date of approval by the local governmental unit and ending on the December 31 following 12 years after the approval by the local governmental unit.

**History:** Add. 1977, Act 5, Imd. Eff. Mar. 24, 1977;—Am. 1980, Act 348, Imd. Eff. Dec. 27, 1980.

**Popular name:** Act 206

**211.7j Tax exemption for new or existing facility for which commercial housing facilities exemption certificate issued.**

Sec. 7j. A new facility or an existing facility for which a commercial housing facilities exemption certificate issued pursuant to Act No. 438 of the Public Acts of 1976, being sections 207.601 to 207.615 of the Michigan Compiled Laws, is in effect, but not the land on which the new facility is located, shall be exempt from taxation under this act for the period beginning on the effective date of the certificate and continuing as long as the commercial housing facilities exemption certificate is in force.

**History:** Add. 1977, Act 5, Imd. Eff. Mar. 24, 1977.

**Popular name:** Act 206

**211.7k Tax exemption for facility for which industrial facilities exemption certificate issued.**

Sec. 7k. A facility for which an industrial facilities exemption certificate issued under Act No. 198 of the Public Acts of 1974, being sections 207.551 to 207.572 of the Michigan Compiled Laws, is in effect, but not the land on which the facility is located or to be located, is exempt from taxation under this act for the period beginning on the effective date of the certificate and continuing as long as the industrial facilities exemption certificate is in force.

**History:** Add. 1977, Act 5, Imd. Eff. Mar. 24, 1977;—Am. 1996, Act 476, Imd. Eff. Dec. 26, 1996.

**Popular name:** Act 206

**211.7l State property.**

Sec. 7l. Public property belonging to the state, except licensed homestead lands, part-paid lands held under certificates, and lands purchased at tax sales, and still held by the state is exempt from taxation under this act. This exemption shall not apply to lands acquired after July 19, 1966, unless a deed or other memorandum of conveyance is recorded in the county where the lands are located before December 31 of the year of acquisition, or the local assessing officer is notified by registered mail of the acquisition before December 31 of the year of acquisition.

**History:** Add. 1980, Act 142, Imd. Eff. June 2, 1980.

**Popular name:** Act 206

**211.7m Property owned or being acquired by county, township, city, village, school district, or political subdivision; parks.**

Sec. 7m. Property owned by, or being acquired pursuant to, an installment purchase agreement by a county, township, city, village, or school district used for public purposes and property owned or being acquired by an agency, authority, instrumentality, nonprofit corporation, commission, or other separate legal entity comprised solely of, or which is wholly owned by, or whose members consist solely of a political subdivision, a combination of political subdivisions, or a combination of political subdivisions and the state and is used to carry out a public purpose itself or on behalf of a political subdivision or a combination is exempt from taxation under this act. Parks shall be open to the public generally. This exemption shall not apply to property acquired after July 19, 1966, unless a deed or other memorandum of conveyance is recorded in the county where the property is located before December 31 of the year of acquisition, or the local assessing officer is notified by registered mail of the acquisition before December 31 of the year of



acquisition.

**History:** Add. 1980, Act 142, Imd. Eff. June 2, 1980.

**Popular name:** Act 206

**211.7n Nonprofit theater, library, educational, or scientific institution; nonprofit organization fostering development of literature, music, painting, or sculpture.**

Sec. 7n. Real estate or personal property owned and occupied by nonprofit theater, library, educational, or scientific institutions incorporated under the laws of this state with the buildings and other property thereon while occupied by them solely for the purposes for which the institutions were incorporated is exempt from taxation under this act. In addition, real estate or personal property owned and occupied by a nonprofit organization organized under the laws of this state devoted exclusively to fostering the development of literature, music, painting, or sculpture which substantially enhances the cultural environment of a community as a whole, is available to the general public on a regular basis, and is occupied by it solely for the purposes for which the organization was incorporated is exempt from taxation under this act.

**History:** Add. 1980, Act 142, Imd. Eff. June 2, 1980;—Am. 1981, Act 212, Imd. Eff. Dec. 30, 1981.

**Popular name:** Act 206

**211.7o Nonprofit charitable institution; exemption; definitions.**

Sec. 7o. (1) Real or personal property owned and occupied by a nonprofit charitable institution while occupied by that nonprofit charitable institution solely for the purposes for which that nonprofit charitable institution was incorporated is exempt from the collection of taxes under this act.

(2) Real or personal property owned and occupied by a charitable trust while occupied by that charitable trust solely for the charitable purposes for which that charitable trust was established is exempt from the collection of taxes under this act.

(3) Real or personal property owned by a nonprofit charitable institution or charitable trust that is leased, loaned, or otherwise made available to another nonprofit charitable institution or charitable trust or to a nonprofit hospital or a nonprofit educational institution that is occupied by that nonprofit charitable institution, charitable trust, nonprofit hospital, or nonprofit educational institution solely for the purposes for which that nonprofit charitable institution, charitable trust, nonprofit hospital, or nonprofit educational institution was organized or established and that would be exempt from taxes collected under this act if the real or personal property were occupied by the lessor nonprofit charitable institution or charitable trust solely for the purposes for which the lessor charitable nonprofit institution was organized or the charitable trust was established is exempt from the collection of taxes under this act.

(4) For taxes levied after December 31, 1997, real or personal property owned by a nonprofit charitable institution or charitable trust that is leased, loaned, or otherwise made available to a governmental entity is exempt from the collection of taxes under this act if all of the following conditions are satisfied:

(a) The real or personal property would be exempt from the collection of taxes under this act under section 7m if the real or personal property were owned or were being acquired pursuant to an installment purchase agreement by the lessee governmental entity.

(b) The real or personal property would be exempt from the collection of taxes under this act if occupied by the lessor nonprofit charitable institution or charitable trust solely for the purposes for which the lessor charitable nonprofit institution was organized or the charitable trust was established.

(5) Real property owned by a qualified conservation organization that is held for conservation purposes and that is open to all residents of this state for educational or recreational use, including, but not limited to, low-impact, nondestructive activities such as hiking, bird watching, cross-country skiing, or snowshoeing is exempt from the collection of taxes under this act. As used in this subsection, "qualified conservation organization" means a nonprofit charitable institution or a charitable trust that meets all of the following conditions:

(a) Is organized or established, as reflected in its articles of incorporation or trust documents, for the purpose of acquiring, maintaining, and protecting nature sanctuaries, nature preserves, and natural areas in this state, that predominantly contain natural habitat for fish, wildlife, and plants.

(b) Is required under its articles of incorporation, bylaws, or trust documents to hold in perpetuity property acquired for the purposes described in subdivision (a) unless both of the following conditions are satisfied:

(i) That property is no longer suitable for the purposes described in subdivision (a).

(ii) The sale of the property is approved by a majority vote of the members or trustees.

(c) Its articles of incorporation, bylaws, or trust documents prohibit any officer, shareholder, board member, employee, or trustee or the family member of an officer, shareholder, board member, employee, or trustee from benefiting from the sale of property acquired for the purposes described in subdivision (a).

(6) If authorized by a resolution of the local tax collecting unit in which the real or personal property is located, real or personal property owned by a nonprofit charitable institution that is occupied and used by the nonprofit charitable institution's chief executive officer as his or her principal residence as a condition of his or her employment and that is contiguous to real property that contains the nonprofit charitable institution's principal place of business is exempt from the collection of taxes under this act.

(7) A charitable home of a fraternal or secret society, or a nonprofit corporation whose stock is wholly owned by a religious or fraternal society that owns and operates facilities for the aged and chronically ill and in which the net income from the operation of the corporation does not inure to the benefit of any person other than the residents, is exempt from the collection of taxes under this act.

(8) Real and personal property owned and occupied by a nonprofit corporation that meets all of the following conditions is exempt from the collection of taxes under this act:

(a) The nonprofit corporation is exempt from taxation under section 501(c)(3) of the internal revenue code, 26 USC 501.

(b) The nonprofit corporation meets 1 of the following conditions:

(i) Is a skilled nursing facility or home for the aged, licensed under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, or is an adult foster care facility licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737. As used in this subparagraph:

(A) "Adult foster care facility" means that term as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.

(B) "Home for the aged" means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(C) "Skilled nursing facility" means that term as defined in section 20109 of the public health code, 1978 PA 368, MCL 333.20109.

(ii) Provides housing, rehabilitation services, diagnostic services, medical services, or therapeutic services to 1 or more disabled persons. As used in this subparagraph, "disabled person" means that term as defined in section 7d.

(c) The nonprofit corporation meets either of the following conditions:

(i) The real and personal property of the nonprofit corporation was being treated as exempt from the collection of all taxes under this act on the effective date of the amendatory act that added this subsection.

(ii) The real and personal property of the nonprofit corporation had been treated as exempt from the collection of all taxes under this act on December 31, 2004 and there has been no transfer of ownership of that property during the period of time beginning the last day the property was treated as exempt until the effective date of the amendatory act that added this subsection. As used in this sub-subparagraph, "transfer of ownership" means that term as defined in section 27a.

(9) If real or personal property owned and occupied by a nonprofit corporation is not eligible for an exemption under subsection (8), that nonprofit corporation is not precluded from applying for exemption under subsection (1).

(10) As used in this section:

(a) "Charitable trust" means a charitable trust registered under the supervision of trustees for charitable purposes act, 1961 PA 101, MCL 14.251 to 14.266.

(b) "Governmental entity" means 1 or more of the following:

(i) The federal government or an agency, department, division, bureau, board, commission, council, or authority of the federal government.

(ii) This state or an agency, department, division, bureau, board, commission, council, or authority of this state.

(iii) A county, city, township, village, local or intermediate school district, or municipal corporation.

(iv) A public educational institution, including, but not limited to, a local or intermediate school district, a public school academy, a community college or junior college established pursuant to section 7 of article VIII of the state constitution of 1963, or a state 4-year institution of higher education located in this state.

(v) Any other authority or public body created under state law.

(c) "Public school academy" means a public school academy organized under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

**History:** Add. 1980, Act 142, Imd. Eff. June 2, 1980;—Am. 1996, Act 469, Imd. Eff. Dec. 26, 1996;—Am. 1998, Act 536, Imd. Eff. Jan. 19, 1999;—Am. 2000, Act 309, Imd. Eff. Oct. 17, 2000;—Am. 2004, Act 576, Imd. Eff. Jan. 4, 2005;—Am. 2006, Act 681, Imd. Eff. Jan. 10, 2007.

**Popular name:** Act 206

## **211.7p Memorial homes or posts.**

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Sec. 7p. Real estate or personal property owned and occupied as memorial homes or posts is exempt from taxation under this act. As used in this section, memorial homes includes real estate and buildings owned and occupied solely by any veterans association, organization, or institution of the armed forces of the United States which is incorporated under the laws of this state and used solely for the purposes for which they were incorporated, but does not include buildings or portions of buildings which are not restricted to members and guests and are used for commercial operations permitting the patronage of the general public, including but not limited to dancehalls, bars with class C liquor licenses, bowling alleys, pool or billiard rooms, television rooms, and game rooms. Incidental or casual rental or leasing for nonveteran purposes is no bar to the exemption. It is the legislative intent that the making available of the exempt facilities for public assemblage or social affairs shall not be adequate cause to deny this exemption in whole or in part.

**History:** Add. 1980, Act 142, Imd. Eff. June 2, 1980.

**Popular name:** Act 206

**211.7q Boy or girl scout or camp fire girls organization; 4-H club or foundation; young men's or young women's Christian association; exemption; limitation; waiver of residence requirement.**

Sec. 7q. (1) Except as otherwise provided in subsections (2) and (3), real property owned by a boy or girl scout or camp fire girls organization, a 4-H club or foundation, or a young men's Christian association or young women's Christian association is exempt from the collection of taxes under this act, if at least 50% of the members of the association or organization are residents of this state.

(2) The exemption under subsection (1) is limited as follows:

(a) Before December 31, 2008, not to exceed 400 acres for each individual boy or girl scout or camp fire girls organization, 4-H club or foundation, or young men's Christian association or young women's Christian association.

(b) After December 30, 2008, not to exceed 480 acres for each individual boy or girl scout or camp fire girls organization, 4-H club or foundation, or young men's Christian association or young women's Christian association. However, if a boy or girl scout or camp fire girls organization, a 4-H club or foundation, or a young men's Christian association or young women's Christian association reorganizes, merges, affiliates, or in some other manner consolidates with another boy or girl scout or camp fire girls organization, 4-H club or foundation, or young men's Christian association or young women's Christian association after December 30, 2007, the total exemption available under subsection (1) to the consolidated or surviving entity shall be 480 acres times the number of individual boy or girl scout or camp fire girls organizations, 4-H clubs or foundations, or young men's Christian associations or young women's Christian associations that took part in the reorganization, merger, affiliation, or consolidation.

(3) Upon petition of the association or organization the county board of commissioners may waive the residence requirement under subsection (1) while the real property is occupied by the association or organization solely for the purpose for which the association or organization was incorporated or established.

**History:** Add. 1980, Act 142, Imd. Eff. June 2, 1980;—Am. 2008, Act 505, Imd. Eff. Jan. 13, 2009.

**Popular name:** Act 206

**211.7r Certain clinics.**

Sec. 7r. The real estate and building of a clinic erected, financed, occupied, and operated by a nonprofit corporation or by the trustees of health and welfare funds is exempt from taxation under this act, if the funds of the corporation or the trustees are derived solely from payments and contributions under the terms of collective bargaining agreements between employers and representatives of employees for whose use the clinic is maintained. The real estate with the buildings and other property located on the real estate on that acreage, owned and occupied by a nonprofit trust and used for hospital or public health purposes is exempt from taxation under this act, but not including excess acreage not actively utilized for hospital or public health purposes and real estate and dwellings located on that acreage used for dwelling purposes for resident physicians and their families.

**History:** Add. 1980, Act 142, Imd. Eff. June 2, 1980.

**Popular name:** Act 206

**211.7s Houses of public worship; parsonage.**

Sec. 7s. Houses of public worship, with the land on which they stand, the furniture therein and all rights in the pews, and any parsonage owned by a religious society of this state and occupied as a parsonage are exempt from taxation under this act. Houses of public worship includes buildings or other facilities owned by a religious society and used predominantly for religious services or for teaching the religious truths and

beliefs of the society.

**History:** Add. 1980, Act 142, Imd. Eff. June 2, 1980.

**Popular name:** Act 206

#### **211.7t Burial grounds; rights of burial; tombs and monuments.**

Sec. 7t. Land used exclusively as burial grounds, the rights of burial, and the tombs and monuments in the land, while reserved and in use for that purpose is exempt from taxation under this act. The stock of a corporation owning a burial ground shall not be exempt.

**History:** Add. 1980, Act 142, Imd. Eff. June 2, 1980.

**Popular name:** Act 206

#### **211.7u Principal residence of persons in poverty; exemption from taxation; applicability of section to property of corporation; eligibility for exemption; application; policy and guidelines to be used by local assessing unit; duties of board of review; appeal of property assessment; "principal residence" defined.**

Sec. 7u. (1) The principal residence of persons who, in the judgment of the supervisor and board of review, by reason of poverty, are unable to contribute toward the public charges is eligible for exemption in whole or in part from taxation under this act. This section does not apply to the property of a corporation.

(2) To be eligible for exemption under this section, a person shall do all of the following on an annual basis:

- (a) Be an owner of and occupy as a principal residence the property for which an exemption is requested.
- (b) File a claim with the supervisor or board of review on a form provided by the local assessing unit, accompanied by federal and state income tax returns for all persons residing in the principal residence, including any property tax credit returns, filed in the immediately preceding year or in the current year. The filing of a claim under this subsection constitutes an appearance before the board of review for the purpose of preserving the claimant's right to appeal the decision of the board of review regarding the claim.
- (c) Produce a valid driver's license or other form of identification if requested by the supervisor or board of review.
- (d) Produce a deed, land contract, or other evidence of ownership of the property for which an exemption is requested if required by the supervisor or board of review.
- (e) Meet the federal poverty guidelines updated annually in the federal register by the United States department of health and human services under authority of section 673 of subtitle B of title VI of the omnibus budget reconciliation act of 1981, Public Law 97-35, 42 U.S.C. 9902, or alternative guidelines adopted by the governing body of the local assessing unit provided the alternative guidelines do not provide income eligibility requirements less than the federal guidelines.

(3) The application for an exemption under this section shall be filed after January 1 but before the day prior to the last day of the board of review.

(4) The governing body of the local assessing unit shall determine and make available to the public the policy and guidelines the local assessing unit uses for the granting of exemptions under this section. The guidelines shall include but not be limited to the specific income and asset levels of the claimant and total household income and assets.

(5) The board of review shall follow the policy and guidelines of the local assessing unit in granting or denying an exemption under this section unless the board of review determines there are substantial and compelling reasons why there should be a deviation from the policy and guidelines and the substantial and compelling reasons are communicated in writing to the claimant.

(6) A person who files a claim under this section is not prohibited from also appealing the assessment on the property for which that claim is made before the board of review in the same year.

(7) As used in this section, "principal residence" means principal residence or qualified agricultural property as those terms are defined in section 7dd.

**History:** Add. 1980, Act 142, Imd. Eff. June 2, 1980;—Am. 1993, Act 313, Eff. Mar. 15, 1994;—Am. 1994, Act 390, Imd. Eff. Dec. 29, 1994;—Am. 2002, Act 620, Imd. Eff. Dec. 23, 2002;—Am. 2003, Act 140, Eff. Jan. 1, 2004.

**Popular name:** Act 206

#### **211.7v Property of certain corporations and railroads.**

Sec. 7v. The real property of corporations exempt under the laws of this state, by reason of paying specific taxes instead of all other taxes for the support of the state is exempt from taxation under this act. Tracks, right of way, depot grounds and buildings, machine shops, rolling stock, and all other property necessarily used in operating any railroad in this state belonging to a railroad company shall remain exempt from taxation for any



purpose, except for special assessments for local improvements in cities and villages, and land owned or claimed by a railroad company not adjoining the tracks of the company.

**History:** Add. 1980, Act 142, Imd. Eff. June 2, 1980.

**Popular name:** Act 206

#### **211.7w Property of agricultural society used primarily for fair purposes.**

Sec. 7w. (1) Property owned exclusively by the state agricultural society or a county or district agricultural society, and used by the society primarily for fair purposes is exempt from taxation under this act.

(2) Property shall be considered used by a society primarily for fair purposes if the society leases the property to others for purposes which do not interfere with fair purposes and if the income received by the society under the lease is used entirely to defray the costs and expenses of conducting the fair and maintaining the buildings and grounds of the society.

**History:** Add. 1980, Act 142, Imd. Eff. June 2, 1980;—Am. 1984, Act 158, Eff. Dec. 21, 1984.

**Popular name:** Act 206

#### **211.7x Parks; monument ground or armory; property leased by nonprofit corporation to state.**

Sec. 7x. Land dedicated to the public and used as a park open to the public generally; any monument ground or armory belonging to a military organization which is not used for gain or any other purpose; and all property owned by a nonprofit corporation organized to take title to property previously owned by the state when the property owned by that corporation is leased to the state are exempt from taxation under this act. As used in this subdivision, "public" means all the residents of this state.

**History:** Add. 1980, Act 142, Imd. Eff. June 2, 1980.

**Popular name:** Act 206

#### **211.7y Landing area; description of approach clear zones and transitional surface areas in statement; standards; certification.**

Sec. 7y. (1) A landing area for which a fee was paid pursuant to section 86 of Act No. 327 of the Public Acts of 1945, as amended, being section 259.86 of the Michigan Compiled Laws, is exempt from taxation under this act.

(2) For the purposes of this section, "landing area" means that portion of a privately owned public use airport properly cleared, regularly maintained and made available to the public without charge, for use by aircraft and includes runways, taxi-ways, stopways, sites upon which are situated landing or navigational aids, and aprons. A landing area shall also include land underlying approach clear zones and land underlying transitional surface areas that comply with all of the following:

(a) The land is properly cleared and regularly maintained for the primary purposes of the landing, taking off, and taxiing of aircraft; but that portion of the land that contains facilities for shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo shall not be included as a landing area.

(b) The land is part of the airport property.

(c) The land is not used for commercial, residential, or agricultural purposes.

(d) The land is available to the public without charge for the purposes permitted by subdivision (a).

(3) Approach clear zones and transitional surface areas for each airport for which the exemption provided by this section may apply, shall be described by a statement certified by the director of the Michigan aeronautics commission. This statement shall be included as part of the annual certification of the landing field under section 86 of Act No. 327 of the Public Acts of 1945, as amended. Standards for describing approach clear zones and transitional surface areas shall be uniform according to type of runway and shall conform with regularly accepted definitions and usage in the aeronautics field.

**History:** Add. 1980, Act 142, Imd. Eff. June 2, 1980;—Am. 1982, Act 347, Eff. Mar. 30, 1983.

**Popular name:** Act 206

#### **211.7z Property used primarily for public school or other educational purposes; parent cooperative preschools.**

Sec. 7z. (1) Property which is leased, loaned, or otherwise made available to a school district, community college, or other state supported educational institution, or a nonprofit educational institution which would have been exempt from ad valorem taxation had it been occupied by its owner solely for the purposes for which it was incorporated, while it is used by the school district, community college, or other state supported educational institution, or a nonprofit educational institution primarily for public school or other educational purposes is exempt from taxation under this act.

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(2) The value of real estate owned and occupied by a parent cooperative preschool, as defined in section 9 is exempt from taxation under this act, if the property is used predominantly for operating a preschool education program.

**History:** Add. 1980, Act 142, Imd. Eff. June 2, 1980;—Am. 1986, Act 200, Imd. Eff. July 21, 1986.

**Compiler's note:** Section 2 of Act 200 of 1986 provides: "This amendatory act shall take effect for tax years beginning on or after December 31, 1985".

**Popular name:** Act 206

**211.7aa Exemption of real property leased, loaned, or otherwise made available to municipal water authority.**

Sec. 7aa. Real property which would be exempt from taxation under this act if the property was used by the lessor and which is leased, loaned, or otherwise made available to a municipal water authority created under Act No. 196 of the Public Acts of 1952, being sections 124.251 to 124.262 of the Michigan Compiled Laws, whose members consist solely of a political subdivision, a combination of political subdivisions, or a combination of 1 or more political subdivisions and the state, and which is used to carry out a public purpose itself or on behalf of a political subdivision, a combination of political subdivisions, or a combination of 1 or more political subdivisions and the state is exempt from taxation under this act.

**History:** Add. 1982, Act 516, Imd. Eff. Dec. 31, 1982.

**Popular name:** Act 206

**211.7bb Tax exemption for nursery stock seasonal protection unit; definition.**

Sec. 7bb. (1) A nursery stock seasonal protection unit, but not the land on which it is located, is exempt from taxation under this act.

(2) As used in this section, "nursery stock seasonal protection unit" means a structure that meets all of the following conditions:

(a) For less than 34 weeks each year, the structure is covered by nonreusable plastic sheeting, shade cloth, or other similar removable material.

(b) The structure is used exclusively for winter protection of fall dug or container grown plants.

(c) The structure does not have a concrete base greater than 10 inches deep or flooring.

**History:** Add. 1988, Act 23, Imd. Eff. Feb. 18, 1988.

**Popular name:** Act 206

**211.7cc Homestead exemption from tax levied by local school district for school operating purposes; procedures; definitions.**

Sec. 7cc. (1) A principal residence is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, if an owner of that principal residence claims an exemption as provided in this section. Notwithstanding the tax day provided in section 2, the status of property as a principal residence shall be determined on the date an affidavit claiming an exemption is filed under subsection (2).

(2) Except as otherwise provided in subsection (5), an owner of property may claim 1 exemption under this section by filing an affidavit on or before May 1 with the local tax collecting unit in which the property is located. The affidavit shall state that the property is owned and occupied as a principal residence by that owner of the property on the date that the affidavit is signed. The affidavit shall be on a form prescribed by the department of treasury. One copy of the affidavit shall be retained by the owner, 1 copy shall be retained by the local tax collecting unit until any appeal or audit period under this act has expired, and 1 copy shall be forwarded to the department of treasury pursuant to subsection (4), together with all information submitted under subsection (26) for a cooperative housing corporation. The affidavit shall require the owner claiming the exemption to indicate if that owner or that owner's spouse has claimed another exemption on property in this state that is not rescinded or a substantially similar exemption, deduction, or credit on property in another state that is not rescinded. If the affidavit requires an owner to include a social security number, that owner's number is subject to the disclosure restrictions in 1941 PA 122, MCL 205.1 to 205.31. If an owner of property filed an affidavit for an exemption under this section before January 1, 2004, that affidavit shall be considered the affidavit required under this subsection for a principal residence exemption and that exemption shall remain in effect until rescinded as provided in this section.

(3) Except as otherwise provided in subsection (5), a husband and wife who are required to file or who do file a joint Michigan income tax return are entitled to not more than 1 exemption under this section. For taxes levied after December 31, 2002, a person is not entitled to an exemption under this section if any of the following conditions occur:

(a) That person has claimed a substantially similar exemption, deduction, or credit on property in another state that is not rescinded.

(b) Subject to subdivision (a), that person or his or her spouse owns property in a state other than this state for which that person or his or her spouse claims an exemption, deduction, or credit substantially similar to the exemption provided under this section, unless that person and his or her spouse file separate income tax returns.

(c) That person has filed a nonresident Michigan income tax return, except active duty military personnel stationed in this state with his or her principal residence in this state.

(d) That person has filed an income tax return in a state other than this state as a resident, except active duty military personnel stationed in this state with his or her principal residence in this state.

(e) That person has previously rescinded an exemption under this section for the same property for which an exemption is now claimed and there has not been a transfer of ownership of that property after the previous exemption was rescinded, if either of the following conditions is satisfied:

(i) That person has claimed an exemption under this section for any other property for that tax year.

(ii) That person has rescinded an exemption under this section on other property, which exemption remains in effect for that tax year, and there has not been a transfer of ownership of that property.

(4) Upon receipt of an affidavit filed under subsection (2) and unless the claim is denied under this section, the assessor shall exempt the property from the collection of the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, as provided in subsection (1) until December 31 of the year in which the property is transferred or, except as otherwise provided in subsection (5), is no longer a principal residence as defined in section 7dd. The local tax collecting unit shall forward copies of affidavits to the department of treasury according to a schedule prescribed by the department of treasury.

(5) Not more than 90 days after exempted property is no longer used as a principal residence by the owner claiming an exemption, that owner shall rescind the claim of exemption by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. However, if an owner is eligible for and claims an exemption for that owner's current principal residence, that owner may retain an exemption for not more than 3 tax years on property previously exempt as his or her principal residence if that property is not occupied, is for sale, is not leased, and is not used for any business or commercial purpose by filing a conditional rescission form prescribed by the department of treasury on or before May 1 with the local tax collecting unit. Property is eligible for a conditional rescission if that property is available for lease and all other conditions under this subsection are met. A copy of the conditional rescission form shall be forwarded to the department of treasury according to a schedule prescribed by the department of treasury. An owner who files a conditional rescission form shall annually verify to the assessor of the local tax collecting unit on or before December 31 that the property for which the principal residence exemption is retained is not occupied, is for sale, is not leased, and is not used for any business or commercial purpose. If an owner does not annually verify by December 31 that the property for which the principal residence exemption is retained is not occupied, is for sale, is not leased, and is not used for any business or commercial purpose, the assessor of the local tax collecting unit shall deny the principal residence exemption on that property. If property subject to a conditional rescission is leased, the local tax collecting unit shall deny that conditional rescission and that denial is retroactive and is effective on December 31 of the year immediately preceding the year in which the property subject to the conditional rescission is leased. An owner who fails to file a rescission as required by this subsection is subject to a penalty of \$5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of \$200.00. This penalty shall be collected under 1941 PA 122, MCL 205.1 to 205.31, and shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963. This penalty may be waived by the department of treasury.

(6) Except as otherwise provided in subsection (5), if the assessor of the local tax collecting unit believes that the property for which an exemption is claimed is not the principal residence of the owner claiming the exemption, the assessor may deny a new or existing claim by notifying the owner and the department of treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the residential and small claims division of the Michigan tax tribunal within 35 days after the date of the notice. The assessor may deny a claim for exemption for the current year and for the 3 immediately preceding calendar years. If the assessor denies an existing claim for exemption, the assessor shall remove the exemption of the property and, if the tax roll is in the local tax collecting unit's possession, amend the tax roll to reflect the denial and the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within

30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued. If the assessor denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be a lien on the property and shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due, interest, and penalties through the date of that notification. The department of treasury shall then assess the owner who claimed the exemption under this section for the tax, interest, and penalties accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23). The denial shall be made on a form prescribed by the department of treasury. If the property for which the assessor has denied a claim for exemption under this subsection is located in a county in which the county treasurer or the county equalization director have elected to audit exemptions under subsection (10), the assessor shall notify the county treasurer or the county equalization director of the denial under this subsection.

(7) If the assessor of the local tax collecting unit believes that the property for which the exemption is claimed is not the principal residence of the owner claiming the exemption and has not denied the claim, the assessor shall include a recommendation for denial with any affidavit that is forwarded to the department of treasury or, for an existing claim, shall send a recommendation for denial to the department of treasury, stating the reasons for the recommendation.

(8) The department of treasury shall determine if the property is the principal residence of the owner claiming the exemption. The department of treasury may review the validity of exemptions for the current calendar year and for the 3 immediately preceding calendar years. Except as otherwise provided in subsection (5), if the department of treasury determines that the property is not the principal residence of the owner claiming the exemption, the department shall send a notice of that determination to the local tax collecting unit and to the owner of the property claiming the exemption, indicating that the claim for exemption is denied, stating the reason for the denial, and advising the owner claiming the exemption of the right to appeal the determination to the department of treasury and what those rights of appeal are. The department of treasury may issue a notice denying a claim if an owner fails to respond within 30 days of receipt of a request for information from that department. An owner may appeal the denial of a claim of exemption to the department of treasury within 35 days of receipt of the notice of denial. An appeal to the department of treasury shall be conducted according to the provisions for an informal conference in section 21 of 1941 PA 122, MCL 205.21. Within 10 days after acknowledging an appeal of a denial of a claim of exemption, the department of treasury shall notify the assessor and the treasurer for the county in which the property is located that an appeal has been filed. Upon receipt of a notice that the department of treasury has denied a claim for exemption, the assessor shall remove the exemption of the property and, if the tax roll is in the local tax collecting unit's possession, amend the tax roll to reflect the denial and the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest and penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. The department of treasury may waive interest on any tax set forth in a corrected or supplemental tax bill for the current tax year and the immediately preceding 3 tax years if the assessor of the local tax collecting unit files with the department of treasury a sworn affidavit in a form prescribed by the department of treasury stating that the tax set forth in the corrected or supplemental tax bill is a result of the assessor's classification error or other error or the assessor's failure to rescind the exemption after the owner requested in writing that the exemption be rescinded. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or



supplemental tax bill is issued. If the department of treasury denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be a lien on the property and shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due and interest through the date of that notification. The department of treasury shall then assess the owner who claimed the exemption under this section for the tax and interest plus penalty accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23).

(9) The department of treasury may enter into an agreement regarding the implementation or administration of subsection (8) with the assessor of any local tax collecting unit in a county that has not elected to audit exemptions claimed under this section as provided in subsection (10). The agreement may specify that for a period of time, not to exceed 120 days, the department of treasury will not deny an exemption identified by the department of treasury in the list provided under subsection (11).

(10) A county may elect to audit the exemptions claimed under this section in all local tax collecting units located in that county as provided in this subsection. The election to audit exemptions shall be made by the county treasurer, or by the county equalization director with the concurrence by resolution of the county board of commissioners. The initial election to audit exemptions shall require an audit period of 2 years. Before 2009, subsequent elections to audit exemptions shall be made every 2 years and shall require 2 annual audit periods. Beginning in 2009, an election to audit exemptions shall be made every 5 years and shall require 5 annual audit periods. An election to audit exemptions shall be made by submitting an election to audit form to the assessor of each local tax collecting unit in that county and to the department of treasury not later than April 1 preceding the October 1 in the year in which an election to audit is made. The election to audit form required under this subsection shall be in a form prescribed by the department of treasury. If a county elects to audit the exemptions claimed under this section, the department of treasury may continue to review the validity of exemptions as provided in subsection (8). If a county does not elect to audit the exemptions claimed under this section as provided in this subsection, the department of treasury shall conduct an audit of exemptions claimed under this section in the initial 2-year audit period for each local tax collecting unit in that county unless the department of treasury has entered into an agreement with the assessor for that local tax collecting unit under subsection (9).

(11) If a county elects to audit the exemptions claimed under this section as provided in subsection (10) and the county treasurer or his or her designee or the county equalization director or his or her designee believes that the property for which an exemption is claimed is not the principal residence of the owner claiming the exemption, the county treasurer or his or her designee or the county equalization director or his or her designee may, except as otherwise provided in subsection (5), deny an existing claim by notifying the owner, the assessor of the local tax collecting unit, and the department of treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the residential and small claims division of the Michigan tax tribunal within 35 days after the date of the notice. The county treasurer or his or her designee or the county equalization director or his or her designee may deny a claim for exemption for the current year and for the 3 immediately preceding calendar years. If the county treasurer or his or her designee or the county equalization director or his or her designee denies an existing claim for exemption, the county treasurer or his or her designee or the county equalization director or his or her designee shall direct the assessor of the local tax collecting unit in which the property is located to remove the exemption of the property from the assessment roll and, if the tax roll is in the local tax collecting unit's possession, direct the assessor of the local tax collecting unit to amend the tax roll to reflect the denial and the treasurer of the local tax collecting unit shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest and penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued. If the county treasurer or his or her designee or the county equalization

director or his or her designee denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be a lien on the property and shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due and interest through the date of that notification. The department of treasury shall then assess the owner who claimed the exemption under this section for the tax and interest plus penalty accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23). The department of treasury shall annually provide the county treasurer or his or her designee or the county equalization director or his or her designee a list of parcels of property located in that county for which an exemption may be erroneously claimed. The county treasurer or his or her designee or the county equalization director or his or her designee shall forward copies of the list provided by the department of treasury to each assessor in each local tax collecting unit in that county within 10 days of receiving the list.

(12) If a county elects to audit exemptions claimed under this section as provided in subsection (10), the county treasurer or the county equalization director may enter into an agreement with the assessor of a local tax collecting unit in that county regarding the implementation or administration of this section. The agreement may specify that for a period of time, not to exceed 120 days, the county will not deny an exemption identified by the department of treasury in the list provided under subsection (11).

(13) An owner may appeal a denial by the assessor of the local tax collecting unit under subsection (6), a final decision of the department of treasury under subsection (8), or a denial by the county treasurer or his or her designee or the county equalization director or his or her designee under subsection (11) to the residential and small claims division of the Michigan tax tribunal within 35 days of that decision. An owner is not required to pay the amount of tax in dispute in order to appeal a denial of a claim of exemption to the department of treasury or to receive a final determination of the residential and small claims division of the Michigan tax tribunal. However, interest at the rate of 1.25% per month or fraction of a month and penalties shall accrue and be computed from the date the taxes were last payable without interest and penalty. If the residential and small claims division of the Michigan tax tribunal grants an owner's appeal of a denial and that owner has paid the interest due as a result of a denial under subsection (6), (8), or (11), the interest received after a distribution was made under subsection (23) shall be refunded.

(14) For taxes levied after December 31, 2005, for each county in which the county treasurer or the county equalization director does not elect to audit the exemptions claimed under this section as provided in subsection (10), the department of treasury shall conduct an annual audit of exemptions claimed under this section for the current calendar year.

(15) Except as otherwise provided in subsection (5), an affidavit filed by an owner for the exemption under this section rescinds all previous exemptions filed by that owner for any other property. The department of treasury shall notify the assessor of the local tax collecting unit in which the property for which a previous exemption was claimed is located if the previous exemption is rescinded by the subsequent affidavit. When an exemption is rescinded, the assessor of the local tax collecting unit shall remove the exemption effective December 31 of the year in which the affidavit was filed that rescinded the exemption. For any year for which the rescinded exemption has not been removed from the tax roll, the exemption shall be denied as provided in this section. However, interest and penalty shall not be imposed for a year for which a rescission form has been timely filed under subsection (5).

(16) Except as otherwise provided in subsection (28), if the principal residence is part of a unit in a multiple-unit dwelling or a dwelling unit in a multiple-purpose structure, an owner shall claim an exemption for only that portion of the total taxable value of the property used as the principal residence of that owner in a manner prescribed by the department of treasury. If a portion of a parcel for which the owner claims an exemption is used for a purpose other than as a principal residence, the owner shall claim an exemption for only that portion of the taxable value of the property used as the principal residence of that owner in a manner prescribed by the department of treasury.

(17) When a county register of deeds records a transfer of ownership of a property, he or she shall notify the local tax collecting unit in which the property is located of the transfer.

(18) The department of treasury shall make available the affidavit forms and the forms to rescind an exemption, which may be on the same form, to all city and township assessors, county equalization officers, county registers of deeds, and closing agents. A person who prepares a closing statement for the sale of property shall provide affidavit and rescission forms to the buyer and seller at the closing and, if requested by

the buyer or seller after execution by the buyer or seller, shall file the forms with the local tax collecting unit in which the property is located. If a closing statement preparer fails to provide exemption affidavit and rescission forms to the buyer and seller, or fails to file the affidavit and rescission forms with the local tax collecting unit if requested by the buyer or seller, the buyer may appeal to the department of treasury within 30 days of notice to the buyer that an exemption was not recorded. If the department of treasury determines that the buyer qualifies for the exemption, the department of treasury shall notify the assessor of the local tax collecting unit that the exemption is granted and the assessor of the local tax collecting unit or, if the tax roll is in the possession of the county treasurer, the county treasurer shall correct the tax roll to reflect the exemption. This subsection does not create a cause of action at law or in equity against a closing statement preparer who fails to provide exemption affidavit and rescission forms to a buyer and seller or who fails to file the affidavit and rescission forms with the local tax collecting unit when requested to do so by the buyer or seller.

(19) An owner who owned and occupied a principal residence on May 1 for which the exemption was not on the tax roll may file an appeal with the July board of review or December board of review in the year for which the exemption was claimed or the immediately succeeding 3 years. If an appeal of a claim for exemption that was not on the tax roll is received not later than 5 days prior to the date of the December board of review, the local tax collecting unit shall convene a December board of review and consider the appeal pursuant to this section and section 53b. For the 2008 tax year only, an owner of property eligible for a conditional rescission under subsection (5) who did not file a conditional rescission form prescribed by the department of treasury with the local tax collecting unit on or before May 1, 2008 may file an appeal with the 2008 July board of review or 2008 December board of review to claim a conditional rescission for the 2008 tax year. For the 2008 and 2009 tax years only, an owner of property classified as timber-cutover real property adjoining or contiguous to that owner's principal residence who did not claim an exemption for the property classified as timber-cutover real property under this section before May 1, 2009 or whose claim for exemption under this section for that property classified as timber-cutover real property was denied before May 1, 2009 may file an appeal with the 2009 December board of review or the 2010 July board of review to claim an exemption under this section for that property classified as timber-cutover real property for the 2008 and 2009 tax years.

(20) If the assessor or treasurer of the local tax collecting unit believes that the department of treasury erroneously denied a claim for exemption, the assessor or treasurer may submit written information supporting the owner's claim for exemption to the department of treasury within 35 days of the owner's receipt of the notice denying the claim for exemption. If, after reviewing the information provided, the department of treasury determines that the claim for exemption was erroneously denied, the department of treasury shall grant the exemption and the tax roll shall be amended to reflect the exemption.

(21) If granting the exemption under this section results in an overpayment of the tax, a rebate, including any interest paid, shall be made to the taxpayer by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll within 30 days of the date the exemption is granted. The rebate shall be without interest. If an exemption for property classified as timber-cutover real property is granted under this section for the 2008 or 2009 tax year, the tax roll shall be corrected and any delinquent and unpaid penalty, interest, and tax resulting from that property not having been exempt under this section for the 2008 or 2009 tax year shall be waived.

(22) If an exemption under this section is erroneously granted for an affidavit filed before October 1, 2003, an owner may request in writing that the department of treasury withdraw the exemption. The request to withdraw the exemption shall be received not later than November 1, 2003. If an owner requests that an exemption be withdrawn, the department of treasury shall issue an order notifying the local assessor that the exemption issued under this section has been denied based on the owner's request. If an exemption is withdrawn, the property that had been subject to that exemption shall be immediately placed on the tax roll by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll as though the exemption had not been granted. A corrected tax bill shall be issued for the tax year being adjusted by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. Unless a denial has been issued prior to July 1, 2003, if an owner requests that an exemption under this section be withdrawn and that owner pays the corrected tax bill issued under this subsection within 30 days after the corrected tax bill is issued, that owner is not liable for any penalty or interest on the additional tax. An owner who pays a corrected tax bill issued under this subsection more than 30 days after the corrected tax bill is issued is liable for the penalties and interest that would have accrued if the exemption had not been granted from the date the taxes were originally levied.

(23) Subject to subsection (24), interest at the rate of 1.25% per month or fraction of a month collected



under subsection (6), (8), or (11) shall be distributed as follows:

(a) If the assessor of the local tax collecting unit denies the exemption under this section, as follows:

- (i) To the local tax collecting unit, 70%.
- (ii) To the department of treasury, 10%.
- (iii) To the county in which the property is located, 20%.

(b) If the department of treasury denies the exemption under this section, as follows:

- (i) To the local tax collecting unit, 20%.
- (ii) To the department of treasury, 70%.
- (iii) To the county in which the property is located, 10%.

(c) If the county treasurer or his or her designee or the county equalization director or his or her designee denies the exemption under this section, as follows:

- (i) To the local tax collecting unit, 20%.
- (ii) To the department of treasury, 10%.
- (iii) To the county in which the property is located, 70%.

(24) Interest distributed under subsection (23) is subject to the following conditions:

(a) Interest distributed to a county shall be deposited into a restricted fund to be used solely for the administration of exemptions under this section. Money in that restricted fund shall lapse to the county general fund on the December 31 in the year 3 years after the first distribution of interest to the county under subsection (23) and on each succeeding December 31 thereafter.

(b) Interest distributed to the department of treasury shall be deposited into the principal residence property tax exemption audit fund, which is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund shall be considered a work project account and at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. Money from the fund shall be expended, upon appropriation, only for the purpose of auditing exemption affidavits.

(25) Interest distributed under subsection (23) is in addition to and shall not affect the levy or collection of the county property tax administration fee established under this act.

(26) A cooperative housing corporation is entitled to a full or partial exemption under this section for the tax year in which the cooperative housing corporation files all of the following with the local tax collecting unit in which the cooperative housing corporation is located if filed on or before May 1:

(a) An affidavit form.

(b) A statement of the total number of units owned by the cooperative housing corporation and occupied as the principal residence of a tenant stockholder as of the date of the filing under this subsection.

(c) A list that includes the name, address, and social security number of each tenant stockholder of the cooperative housing corporation occupying a unit in the cooperative housing corporation as his or her principal residence as of the date of the filing under this subsection.

(d) A statement of the total number of units of the cooperative housing corporation on which an exemption under this section was claimed and that were transferred in the tax year immediately preceding the tax year in which the filing under this section was made.

(27) Before May 1, 2004 and before May 1, 2005, the treasurer of each county shall forward to the department of education a statement of the taxable value of each school district and fraction of a school district within the county for the preceding 4 calendar years. This requirement is in addition to the requirement set forth in section 151 of the state school aid act of 1979, 1979 PA 94, MCL 388.1751.

(28) For a parcel of property open and available for use as a bed and breakfast, the portion of the taxable value of the property used as a principal residence under subsection (16) shall be calculated in the following manner:

(a) Add all of the following:

- (i) The square footage of the property used exclusively as that owner's principal residence.
- (ii) 50% of the square footage of the property's common area.
- (iii) If the property was not open and available for use as a bed and breakfast for 90 or more consecutive days in the immediately preceding 12-month period, the result of the following calculation:

(A) Add the square footage of the property that is open and available regularly and exclusively as a bed and breakfast, and 50% of the square footage of the property's common area.

(B) Multiply the result of the calculation in sub-subparagraph (A) by a fraction, the numerator of which is the number of consecutive days in the immediately preceding 12-month period that the property was not open and available for use as a bed and breakfast and the denominator of which is 365.

(b) Divide the result of the calculation in subdivision (a) by the total square footage of the property.

(29) The owner claiming an exemption under this section for property open and available as a bed and breakfast shall file an affidavit claiming the exemption on or before May 1 with the local tax collecting unit in which the property is located. The affidavit shall be in a form prescribed by the department of treasury.

(30) As used in this section:

(a) "Bed and breakfast" means property classified as residential real property under section 34c that meets all of the following criteria:

(i) Has 10 or fewer sleeping rooms, including sleeping rooms occupied by the owner of the property, 1 or more of which are available for rent to transient tenants.

(ii) Serves meals at no extra cost to its transient tenants.

(iii) Has a smoke detector in proper working order in each sleeping room and a fire extinguisher in proper working order on each floor.

(b) "Common area" includes, but is not limited to, a kitchen, dining room, living room, fitness room, porch, hallway, laundry room, or bathroom that is available for use by guests of a bed and breakfast or, unless guests are specifically prohibited from access to the area, an area that is used to provide a service to guests of a bed and breakfast.

**History:** Add. 1994, Act 237, Imd. Eff. June 30, 1994;—Am. 1994, Act 415, Imd. Eff. Dec. 29, 1994;—Am. 1995, Act 74, Eff. Dec. 31, 1994;—Am. 1996, Act 476, Imd. Eff. Dec. 26, 1996;—Am. 2002, Act 624, Imd. Eff. Dec. 23, 2002;—Am. 2003, Act 105, Imd. Eff. July 24, 2003;—Am. 2003, Act 140, Eff. Jan. 1, 2004;—Am. 2003, Act 247, Imd. Eff. Dec. 29, 2003;—Am. 2006, Act 664, Imd. Eff. Jan. 10, 2007;—Am. 2008, Act 96, Imd. Eff. Apr. 8, 2008;—Am. 2008, Act 198, Imd. Eff. July 11, 2008;—Am. 2010, Act 17, Eff. Dec. 31, 2007.

**Compiler's note:** Section 2 of Act 74 of 1995 provides:

"This amendatory act is retroactive and shall take effect December 31, 1994."

Enacting section 1 of Act 17 of 2010 provides:

"Enacting section 1. This amendatory act is retroactive and is effective for the 2008 tax year."

**Popular name:** Act 206

**Popular name:** Homestead

## 211.7dd Definitions.

Sec. 7dd. As used in sections 7cc and 7ee:

(a) "Owner" means any of the following:

(i) A person who owns property or who is purchasing property under a land contract.

(ii) A person who is a partial owner of property.

(iii) A person who owns property as a result of being a beneficiary of a will or trust or as a result of intestate succession.

(iv) A person who owns or is purchasing a dwelling on leased land.

(v) A person holding a life lease in property previously sold or transferred to another.

(vi) A grantor who has placed the property in a revocable trust or a qualified personal residence trust.

(vii) The sole present beneficiary of a trust if the trust purchased or acquired the property as a principal residence for the sole present beneficiary of the trust, and the sole present beneficiary of the trust is totally and permanently disabled. As used in this subparagraph, "totally and permanently disabled" means disability as defined in section 216 of title II of the social security act, 42 USC 416, without regard as to whether the sole present beneficiary of the trust has reached the age of retirement.

(viii) A cooperative housing corporation.

(ix) A facility registered under the living care disclosure act, 1976 PA 440, MCL 554.801 to 554.844.

(b) "Person", for purposes of defining owner as used in section 7cc, means an individual and for purposes of defining owner as used in section 7ee means an individual, partnership, corporation, limited liability company, association, or other legal entity.

(c) "Principal residence" means the 1 place where an owner of the property has his or her true, fixed, and permanent home to which, whenever absent, he or she intends to return and that shall continue as a principal residence until another principal residence is established. Except as otherwise provided in this subdivision, principal residence includes only that portion of a dwelling or unit in a multiple-unit dwelling that is subject to ad valorem taxes and that is owned and occupied by an owner of the dwelling or unit. Principal residence also includes all of an owner's unoccupied property classified as residential that is adjoining or contiguous to the dwelling subject to ad valorem taxes and that is owned and occupied by the owner. Beginning December 31, 2007, principal residence also includes all of an owner's unoccupied property classified as timber-cutover real property under section 34c that is adjoining or contiguous to the dwelling subject to ad valorem taxes and that is owned and occupied by the owner. Contiguity is not broken by a road, a right-of-way, or property purchased or taken under condemnation proceedings by a public utility for power transmission lines if the 2

parcels separated by the purchased or condemned property were a single parcel prior to the sale or condemnation. Except as otherwise provided in this subdivision, principal residence also includes any portion of a dwelling or unit of an owner that is rented or leased to another person as a residence as long as that portion of the dwelling or unit that is rented or leased is less than 50% of the total square footage of living space in that dwelling or unit. Principal residence also includes a life care facility registered under the living care disclosure act, 1976 PA 440, MCL 554.801 to 554.844. Principal residence also includes property owned by a cooperative housing corporation and occupied by tenant stockholders. Property that qualified as a principal residence shall continue to qualify as a principal residence for 3 years after all or any portion of the dwelling or unit included in or constituting the principal residence is rented or leased to another person as a residence if all of the following conditions are satisfied:

(i) The owner of the dwelling or unit is absent while on active duty in the armed forces of the United States.

(ii) The dwelling or unit would otherwise qualify as the owner's principal residence.

(iii) Except as otherwise provided in this subparagraph, the owner files an affidavit with the assessor of the local tax collecting unit on or before May 1 attesting that it is his or her intent to occupy the dwelling or unit as a principal residence upon completion of active duty in the armed forces of the United States. In 2008 only, the owner may file an affidavit under this subparagraph on or before December 31. A copy of an affidavit filed under this subparagraph shall be forwarded to the department of treasury pursuant to a schedule prescribed by the department of treasury.

(d) "Qualified agricultural property" means unoccupied property and related buildings classified as agricultural, or other unoccupied property and related buildings located on that property devoted primarily to agricultural use as defined in section 36101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36101. Related buildings include a residence occupied by a person employed in or actively involved in the agricultural use and who has not claimed a principal residence exemption on other property. Property used for commercial storage, commercial processing, commercial distribution, commercial marketing, or commercial shipping operations or other commercial or industrial purposes is not qualified agricultural property. A parcel of property is devoted primarily to agricultural use only if more than 50% of the parcel's acreage is devoted to agricultural use. An owner shall not receive an exemption for that portion of the total state equalized valuation of the property that is used for a commercial or industrial purpose or that is a residence that is not a related building.

**History:** Add. 1994, Act 237, Imd. Eff. June 30, 1994;—Am. 1996, Act 57, Imd. Eff. Feb. 26, 1996;—Am. 1996, Act 476, Imd. Eff. Dec. 26, 1996;—Am. 2003, Act 140, Eff. Jan. 1, 2004;—Am. 2006, Act 114, Imd. Eff. Apr. 10, 2006;—Am. 2008, Act 243, Imd. Eff. July 17, 2008;—Am. 2010, Act 17, Eff. Dec. 31, 2007.

**Compiler's note:** Enacting section 1 of Act 17 of 2010 provides:

"Enacting section 1. This amendatory act is retroactive and is effective for the 2008 tax year."

**Popular name:** Act 206

### **211.7ee Qualified agricultural property exemption from tax levied by local school district for school operating purposes; procedures.**

Sec. 7ee. (1) Qualified agricultural property is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, according to the provisions of this section.

(2) Qualified agricultural property that is classified as agricultural under section 34c is exempt under subsection (1) and the owner is not required to file an affidavit claiming an exemption with the local tax collecting unit unless requested by the assessor to determine whether the property includes structures that are not exempt under this section. To claim an exemption under subsection (1) for qualified agricultural property that is not classified as agricultural under section 34c, the owner shall file an affidavit claiming the exemption with the local tax collecting unit by May 1.

(3) The affidavit shall be on a form prescribed by the department of treasury.

(4) For property classified as agricultural, and upon receipt of an affidavit filed under subsection (2) for property not classified as agricultural, the assessor shall determine if the property is qualified agricultural property and if so shall exempt the property from the collection of the tax as provided in subsection (1) until December 31 of the year in which the property is no longer qualified agricultural property as defined in section 7dd. An owner is required to file a new claim for exemption on the same property as requested by the assessor under subsection (2).

(5) Not more than 90 days after all or a portion of the exempted property is no longer qualified agricultural property, the owner shall rescind the exemption for the applicable portion of the property by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. An owner who fails to file